

42. Great Lakes connecting channels, Michigan.
43. Calumet-Sag Channel, Ind. and Ill.
44. Chicago River, North Branch of, Ill.
45. Napa River, Calif.
46. Coos Bay, Oreg.
47. Columbia River at Astoria, Oreg.
48. Columbia River at The Dalles, Oreg.
49. Columbia River, Foster Creek Dam, Wash.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1182. A letter from the Administrator, National Housing Agency, transmitting a draft of a proposed bill for the relief of William H. Morris; to the Committee on Claims.

1183. A letter from the Acting President, United States Civil Service Commission, transmitting one set of the Commission's requests for personnel for the fourth quarter of the fiscal year 1946; to the Committee on the Civil Service.

1184. A letter from the Director, Bureau of the Budget, transmitting copy of letter addressed to the Administrator of the Civilian Production Administration which increases the limitation on the amount which may be expended for travel from the sum set apart in appropriation to this agency for special projects; to the Committee on Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JACKSON: Committee on the Civil Service. H. R. 5939. A bill to increase the rates of compensation of officers and employees of the Federal Government, and for other purposes; without amendment (Rept. No. 1834). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHN J. DELANEY: Committee on Rules. House Resolution 569. Resolution providing for the consideration of S. 1907, a bill to authorize permanent appointments in the Regular Navy and Marine Corps, and for other purposes; without amendment (Rept. No. 1825). Referred to the House Calendar.

Mr. LANHAM: Committee on Public Buildings and Grounds. H. R. 5796. A bill to amend title II of the act entitled "An act to expedite the provision of housing in connection with national defense, and for other purposes," approved October 14, 1940, as amended, to permit the making of contributions, during the fiscal year ending June 30, 1947, for the maintenance and operation of certain school facilities, and for other purposes; with amendment (Rept. No. 1836). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CARLSON:

H. R. 5956. A bill to provide tax relief for income earned over a period of years; to the Committee on Ways and Means.

By Mr. GATHINGS:

H. R. 5957. A bill authorizing and directing the Postmaster General to provide for the improvement of unimproved rural mail routes so as to expedite the rural delivery of United

States mail matter; to the Committee on the Post Office and Post Roads.

By Mr. PACE:

H. R. 5958. A bill to amend the Agricultural Adjustment Act of 1938, as amended; to the Committee on Agriculture.

By Mr. McMILLAN of South Carolina:

H. R. 5959. A bill to exempt from taxation certain property of the Disabled American Veterans in the District of Columbia; to the Committee on the District of Columbia.

By Mrs. LUCE:

H. R. 5960. A bill to establish a Department of Children's Welfare; to the Committee on Expenditures in the Executive Departments.

By Mr. CANNON of Missouri:

H. J. Res. 333. Joint resolution to provide for the reappointment of Dr. Vannevar Bush as citizen regent of the Board of Regents of the Smithsonian Institution; to the Committee on the Library.

By Mrs. DOUGLAS of Illinois:

H. Con. Res. 140. Concurrent resolution to restore rationing of food products on which there is a marked world deficit; to the Committee on Banking and Currency.

By Mr. RANDOLPH:

H. Res. 576. Resolution providing for the consideration of the bill H. R. 5939, to increase the rates of compensation of officers and employees of the Federal Government, and for other purposes; to the Committee on Rules.

By Mr. RIZLEY:

H. Res. 577. Resolution to request the President to take appropriate action to have a report made to Congress with respect to hourly returns to farmers and farm labor; to the Committee on Agriculture.

By Mr. COLMER:

H. Res. 578. Resolution authorizing the printing of additional copies of House Report No. 1677, current session, entitled "The Use of Wartime Controls During the Transitional Period," for the use of the Special Committee on Postwar Economic Policy and Planning; to the Committee on Printing.

By Mr. VINSON:

H. Res. 579. Resolution providing for the consideration of H. R. 5911, a bill to establish an Office of Naval Research in the Department of the Navy; to plan, foster, and encourage scientific research in recognition of its paramount importance as related to the maintenance of future naval power and the preservation of national security; to provide within the Department of the Navy a single office, which, by contract and otherwise, shall be able to obtain, coordinate, and make available to all bureaus and activities of the Department of the Navy, world-wide scientific information and the necessary services for conducting specialized and imaginative research; to establish a Naval Research Advisory Committee consisting of persons preeminent in the fields of science and research, to consult with and advise the Chief of such Office in matters pertaining to research; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. GORE:

H. R. 5961. A bill for the relief of the legal guardian of I. M. Cothron, Jr., a minor; to the Committee on Claims.

By Mr. McMILLAN of South Carolina:

H. R. 5962. A bill for the relief of Mrs. G. Wilden Eaddy; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

1747. By the SPEAKER: Petition of Edmond C. Fletcher, 103 C Street SE., Wash-

ington, D. C., petitioning consideration of his resolution with reference to praying the impeachment of the Honorable David A. Pine, associate justice of the District Court of the United States for the District of Columbia; to the Committee on the Judiciary.

1748. Also, petition of Edmond C. Fletcher, 103 C Street SE., Washington, D. C., petitioning consideration of his resolution with reference to praying the impeachment of the Honorable Alexander Holtzoff, associate justice of the District Court of the United States for the District of Columbia; to the Committee on the Judiciary.

1749. Also, petition of Edmond C. Fletcher, 103 C Street SE., Washington, D. C., petitioning consideration of his resolution with reference to praying the impeachment of the Honorable Henry A. Schweinhaut, associate justice of the District Court of the United States for the District of Columbia; to the Committee on the Judiciary.

1750. Also, petition of Edmond C. Fletcher, 103 C Street SE., Washington, D. C., petitioning consideration of his resolution with reference to praying the impeachment of the Honorable Bolitha J. Laws, chief justice of the District Court of the United States for the District of Columbia; to the Committee on the Judiciary.

1751. Also, petition of veterans' organizations of the District of Columbia, petitioning consideration of their resolution with reference to urging authorization of appropriations for the government of the District of Columbia to provide necessary sewers, water mains, and streets for temporary housing; to the Committee on the District of Columbia.

1752. Also, petition of Baldomero S. Luque and others, petitioning consideration of their resolution with reference to favoring a continuance of the present status or a dominion status for the Philippines; to the Committee on Insular Affairs.

SENATE

TUESDAY, APRIL 2, 1946

(Legislative day of Tuesday, March 5, 1946)

The Senate met in executive session at 12 o'clock meridian, on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

Father of Lights, in a world that lieth in darkness swept by fitful winds of despair and doubt, we pause at this sheltered sanctuary of Thy grace to make sure that the light within is not dimmed. We lift our soiled and shadowed faces to the one true light, knowing that if we keep our hearts with Thee there is no darkness from without which can quench the light that is within.

In this desperate hour when the world's hope of a bright tomorrow is committed to our frail hands, join us to the great company of unconquered spirits who in evil times have stood their ground, preserving the heritage of man's best, and whose flaming faith has made their lives as lighted windows amid the encircling gloom. We ask it in the ever-blessed name of that One who is the Light of the World. Amen.

THE JOURNAL

On request of Mr. McFarland, and by unanimous consent, the reading of the

Journal of the proceedings of the calendar day Monday, April 1, 1946, was dispensed with, and the Journal was approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting a nomination was communicated to the Senate by Mr. Miller, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Swanson, one of its reading clerks, announced that the House had passed without amendment the following bills of the Senate:

S. 1657. An act to amend Public Law 779 of the Seventy-seventh Congress, entitled "An act to provide for furnishing transportation for certain Government and other personnel necessary for the effective prosecution of the war, and for other purposes," approved December 1, 1942, and for other purposes; and

S. 1739. An act to reimburse certain Navy personnel and former Navy personnel for personal property lost or damaged as the result of fires which occurred at various Navy shore activities.

The message also announced that the House had passed the bill (S. 1163) to provide for the appointment of one additional district judge for the northern district of California, with an amendment in which it requested the concurrence of the Senate.

The message further announced that the House had passed the bill (S. 1907) to authorize permanent appointments in the Regular Navy and Marine Corps, and for other purposes, with amendments in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H. R. 1498. An act to correct the naval record of former members of the crews of the revenue cutters *Algonquin* and *Onondaga*;

H. R. 3565. An act to authorize the charging of tolls for the passage or transit of Government traffic over the San Francisco-Oakland Bay Bridge;

H. R. 3756. An act to require the recording of agreements relating to patents;

H. R. 3959. An act to provide for the burial in the Memorial Amphitheater of the National Cemetery at Arlington, Va., of the remains of an unknown American who lost his life while serving overseas in the armed forces of the United States during the Second World War;

H. R. 4362. An act to abolish the Parker River National Wildlife Refuge in Essex County, Mass., to authorize and direct the restoration to the former owners of the land comprising such refuge, and for other purposes;

H. R. 5380. An act to provide for the conferring of the degree of bachelor of science upon graduates of the United States Merchant Marine Academy;

H. R. 5574. An act to amend paragraph 8 of part VII, Veterans Regulation No. 1 (a), as amended, to authorize an appropriation of \$1,500,000 as a revolving fund in lieu of \$500,000 now authorized;

H. R. 5594. An act to reserve for the use of the United States all deposits of fissionable materials contained in the public lands;

H. R. 5644. An act to facilitate voting by members of the armed forces and certain

others absent from the place of their residence, and to amend Public Law 712, Seventy-seventh Congress, as amended;

H. R. 5765. An act authorizing the Secretary of the Navy, in his discretion, to deliver to the custody of the city of New Orleans the silver service and silver bell presented to the United States for the cruiser *New Orleans*; and

H. J. Res. 273. Joint resolution authorizing and requesting the President to issue annually a proclamation designating December 15 as Bill of Rights Day.

LEAVE OF ABSENCE

Mr. LANGER. Mr. President, I ask unanimous consent to be excused to attend the funeral of Mr. W. I. Horner, of the United Post Office Employees. I may say that I am not a pallbearer, or even an honorary pallbearer; but Mr. Horner rendered very valuable service to post office employees, and, by his advice, to the Committee on Post Offices and Post Roads, of which I am a member. I should like to be excused.

The PRESIDENT pro tempore. Without objection, leave is granted the Senator from North Dakota.

TRANSACTION OF ROUTINE BUSINESS

By unanimous consent, the following routine business was transacted:

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on April 1, 1946, he presented to the President of the United States the enrolled bill (S. 473) relating to pay and allowances of officers of the retired list of the Regular Navy and Coast Guard performing active duty in the rank of rear admiral.

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

SUPPLEMENTAL ESTIMATE, DEPARTMENT OF STATE (S. Doc. No. 149)

A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the Department of State, amounting to \$40,000, fiscal year 1946 (with an accompanying paper); to the Committee on Appropriations and ordered to be printed.

SUPPLEMENTAL ESTIMATES, TREASURY DEPARTMENT (S. Doc. No. 150)

A communication from the President of the United States, transmitting supplemental estimates of appropriation for the Treasury Department, amounting to \$110,800, fiscal year 1946 (with an accompanying paper); to the Committee on Appropriations and ordered to be printed.

SUPPLEMENTAL ESTIMATES, POST OFFICE DEPARTMENT (S. Doc. No. 151)

A communication from the President of the United States, transmitting supplemental estimates of appropriation for the Post Office Department, amounting to \$514,500, fiscal year 1946 (with an accompanying paper); to the Committee on Appropriations and ordered to be printed.

SUPPLEMENTAL ESTIMATES, FEDERAL WORKS AGENCY (S. Doc. No. 152)

A communication from the President of the United States, transmitting supplemental estimates of appropriation for the Federal Works Agency, amounting to \$2,730,000, fiscal year 1946 (with an accompanying paper); to the Committee on Appropriations and ordered to be printed.

PROPOSED PROVISION PERTAINING TO EXISTING APPROPRIATION FOR UNITED STATES MARITIME COMMISSION (S. Doc. No. 154)

A communication from the President of the United States, transmitting a proposed provision pertaining to an existing appropriation for the United States Maritime Commission, fiscal year 1946 (with an accompanying paper); to the Committee on Appropriations and ordered to be printed.

PROPOSED PROVISION PERTAINING TO ADMINISTRATIVE EXPENSES FOR WAR SHIPPING ADMINISTRATION (S. Doc. No. 153)

A communication from the President of the United States, transmitting a proposed provision increasing the limitation on administrative expenses for the War Shipping Administration revolving fund by \$3,325,000, fiscal year 1946 (with an accompanying paper); to the Committee on Appropriations and ordered to be printed.

REPORT OF THE SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury, transmitting, pursuant to law, the annual report of the Secretary of the Treasury on the state of the finances of the Government for the fiscal year ended June 30, 1945 (with an accompanying report); to the Committee on Finance.

RELIEF OF CERTAIN MEMBERS OF THE YAKUTAT COOPERATIVE MARKET

A letter from the Secretary of the Interior, transmitting a draft of proposed legislation for the relief of certain members of the Yakutat Cooperative Market (with accompanying papers); to the Committee on Claims.

SURPLUS LANDS OF THE KLAMATH RIVER INDIAN RESERVATION, CALIF.

A letter from the Secretary of the Interior, transmitting a draft of proposed legislation restoring to tribal ownership certain undisposed of surplus lands of the Klamath River Indian Reservation, Calif. (with an accompanying paper); to the Committee on Indian Affairs.

PERSONNEL REQUIREMENTS

A letter from the Director of the Bureau of the Budget, transmitting, pursuant to law, a report of his determinations during the third quarter of the fiscal year 1946 of the number of employees required for the proper and efficient exercise of the functions of the executive departments and agencies of the Government (with an accompanying report); to the Committee on Civil Service.

EXTENSION OF OFFICE OF PRICE ADMINISTRATION—TELEGRAM FROM HERBERT L. GAEDE, MANHATTAN, KANS.

Mr. CAPPER. Mr. President, I have received from Herbert L. Gaede, manager of the A. L. Duckwall Stores Co., Manhattan, Kans., a telegram favoring the extension of the OPA for 6 months, under certain conditions.

Similar statements have been received from R. M. Stevenson, of the Stevenson Clothing Co., Manhattan, Kans., and from Poteet's Style Shop, of Manhattan, Kans.

I ask unanimous consent to present the telegram from Mr. Gaede for appropriate reference and printing in the RECORD.

There being no objection, the telegram was received, referred to the Committee on Banking and Currency, and ordered to be printed in the RECORD, as follows:

MANHATTAN, KANS., March 27, 1946.

The Honorable ARTHUR CAPPER,

Washington, D. C.

DEAR SIR: My associates and I favor the extension of the OPA for 6 months, but only

on conditions that Congress prohibit the OPA from using:

1. Drastic enforcement methods. Trickery in the wording of directives and unnecessary court procedure.

2. Cost absorption and preticketing that compel retailers to absorb price increases granted manufacturers; and

3. Its powers to force a retailer to sell at less than his prewar percentage of profit. Your cooperation will be highly appreciated.

HERBERT L. GAEDÉ,

Manager, A. L. Duckwall Stores Co.

ECONOMIC WASTE FROM USE OF INTOXICATING LIQUORS—LETTER FROM DR. JOHN R. MCFADDEN

Mr. CAPPER. Mr. President, I have received an interesting letter from Dr. John R. McFadden, of the Kansas Wesleyan University, Salina, Kans., protesting against the economic waste caused by the use of intoxicating liquor throughout this country, at a time when the President is appealing to the people to "save the crusts." I ask unanimous consent to present the letter and that it be printed in the RECORD.

There being no objection, the letter was received and ordered to be printed in the RECORD, as follows:

KANSAS WESLEYAN UNIVERSITY,

Salina, Kans., March 17, 1946.

The Honorable ARTHUR CAPPER,

Senior Senator from Kansas,

Washington, D. C.

MY DEAR SENATOR: I have just listened to your broadcast this afternoon, as I usually do. You are rendering a significant service to this Middle West by this service.

I am deeply concerned about the famine situation in the world. Our Bible class here at the university that I happen to teach—a class of 65 older adults, whose average income would not exceed \$2,000—took on last October the support of starving children in Greece. To date they have sent more than \$400 in cash.

I heard President Truman appeal to save the crusts we are throwing into the garbage cans. Also heard ex-President Hoover and Mrs. LUCE from New York appealing to save and deny ourselves, all of which I am in favor.

But why the silence about the waste of the liquor traffic? Is Truman, Hoover, Luce, and many others ignorant of this waste? According to the American Businessmen's Research Foundation, it required 5,341,701 acres to grow the grain and sugar products used in producing the 10,000,000,000 quarts of alcoholic beverages. When you add to that the acres to grow the grapes for wine, we have a staggering sum of more than 6,000,000 acres consumed in what is worse than useless.

Does it not seem strange that the President of the United States should talk about saving in the garbage can and be perfectly silent on the liquor waste? . . . But what about Hoover? I never thought he was a coward, least of all a hypocrite. Why should he talk about saving a slice of bread and a teaspoon of fat and be silent on the waste of liquor?

The foundation above says that if this grain, sugar, and fruit had been used for food, it would have given 3 pounds a day for every day in the year for more than 5,000,000 adults. Does this silence mean that there is a conspiracy of silence to deceive the American people?

Beg your pardon for the long letter, but it seems to me that now is the time for all Americans who love their country to speak out.

Sincerely yours,

JOHN R. MCFADDEN.

PRIORITY TO VETERANS IN PURCHASING SURPLUS ELECTRONIC AND COMMUNICATIONS EQUIPMENT

Mr. WILEY. Mr. President, for a long time I have been receiving inquiries from soldiers and from educational institutions as to why they have not been enabled to obtain surplus electronic and communications equipment. Today I received a long distance telephone call from one of the outstanding citizens of my State on this subject. Yesterday I wrote a letter to Lt. Gen. E. B. Gregory, War Assets Administration, Washington, D. C., making a detailed inquiry with reference to the situation. I ask that the letter be printed in the RECORD at this point as a part of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

APRIL 1, 1946.

Lt. Gen. E. B. GREGORY,

War Assets Administration,

Washington, D. C.

DEAR GENERAL GREGORY: I would be grateful if you would answer certain questions and present certain information to me regarding the priority actually given veterans and educational institutions in buying electronics surplus.

I understand that the Government has \$2,500,000,000 of surplus electronic and communications equipment, of which only \$130,000,000 has been reported as surplus to date.

From letters addressed to me from veterans and educational institutions, it appears that they are patiently sending their certificates and applications for electronics surplus to Washington. But apparently, these are ending up in a dead-letter file here.

Under the plan already adopted by the Chicago Single Depot and expected to be adopted throughout the Nation, Washington now (unlike heretofore) has no file of agencies' declarations of surplus. Instead, manufacturers' agents serving as Government salesmen on a commission basis are authorized to have shipped to them direct from depots the equipment without the declarations going through the Washington office. I wonder how the Priorities Section of your Electronics Branch here can furnish priorities information to claimants when it does not have the necessary information, under the Chicago plan, as to just what surplus is available?

The following are the questions I would appreciate having answered:

(A) How many veterans have received electronics equipment under the Chicago set-up, in accordance with veterans' preference conferred by Congress under section 16 of Public Law 457, Seventy-eighth Congress?

(B) What are the number and status of pending veterans' applications for electronics equipment?

(C) How many educational institutions have received such surplus in accordance with section 13 of Public Law 457?

(D) What are the number and status of schools' applications for surplus? I understand that in one southern university, where they expect some 6,000 veterans, up to date they have not been able to get any of this electronics material.

It appears to me that there is something rotten in any system which apparently hoaxes veterans and schools into believing that they are going to have priorities in buying surplus, whereas their applications are actually pigeonholed and are unknown to the manufacturers' agents in the field who are functioning as Government salesmen in disposing of the surplus.

Surely the Government of the United States can tell these veterans and schools exactly what their prospects are of getting surplus, rather than misleading them. My next question is, therefore:

(E) Just what are the veterans' and schools' actual prospects of getting surplus?

(F) It is my understanding that 48 State representatives have been appointed by the Governors and the legislatures of the States to assist in the disposition of surplus electronics and communications equipment, as well as other surplus stock which they expect to get. Moreover, I understand that the WAA, through the Federal Security Agency, has already appointed, or will appoint, Federal liaison men to these States to assist the State representatives. As I see it, these many jobs will in no way serve their purpose if the manufacturers' agents continue to sell property without any concern or information regarding veterans' certificates and schools' applications. I understand that information in the United States Office of Education is that 85 percent of the schools' requests for surplus goods relate to electronics and communications materials. How will these requests actually be met?

It seems to me that the Government's desire to liquidate war surplus quickly is, in theory, entirely commendable. We must, insofar as possible, prevent storage charges, obsolescence of equipment as times goes on, etc. But surely we can tell our veterans and schools exactly what the score is.

It seems to me that under the Chicago system the left hand does not know what the right hand is doing; that is, Washington doesn't know what Chicago is doing and vice versa. Why could not the veterans' certificates and the schools' applications be placed in the hands of the agents in Chicago for immediate action, instead of being sent to Washington to repose in a dead-letter file?

I know that you will accept these inquiries and suggestions in the constructive spirit in which they have been offered and that you will advise me regarding the matters herein as soon as possible. May I also hear from you as to future plans for extending the Chicago system of procedure?

Lastly, may I affirm that I, for one, will do everything I can to make certain that the will of Congress in setting up veterans' and schools' preference be respected in letter and spirit, as it apparently has not been respected to date.

Sincerely yours,

ALEXANDER WILEY.

REPORT OF COMMITTEE ON MILITARY AFFAIRS

Mr. THOMAS of Utah, from the Committee on Military Affairs, to which was referred the bill (S. 1980) to continue in effect section 6 of the act of July 2, 1940 (54 Stat. 714), as amended, relating to the exportation of certain commodities, reported it without amendment and submitted a report (No. 1102) thereon.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. LANGER:

S. 2013. A bill for the relief of Ramona Baker; to the Committee on Claims.

By Mr. WHEELER:

S. 2014. A bill to authorize the Secretary of Agriculture to extend and renew to Chicago, Milwaukee, St. Paul & Pacific Railroad Co. for the term of 10 years a lease to Henry A. Scandrett, Walter J. Cummings, and George I. Haight, trustees of Chicago, Milwaukee, St. Paul & Pacific Railroad Co., of a tract of land in the United States Depart-

ment of Agriculture Range Livestock Experiment Station, in the State of Montana, and for a right of way to said tract, for the removal of gravel and ballast material, executed under the authority of the act of Congress approved June 25, 1936; to the Committee on Agriculture and Forestry.

By Mr. ELLENDER (by request):
S. 2015. A bill for the relief of William H. Morris; to the Committee on Claims.

HOUSE BILLS AND JOINT RESOLUTION REFERRED AND PLACED ON CALENDAR

The following bills and joint resolution were severally read twice by their title and referred or ordered to be placed on the calendar, as indicated:

H. R. 1496. An act to correct the naval record of former members of the crews of the revenue cutters *Algonquin* and *Onondaga*; and

H. R. 5765. An act authorizing the Secretary of the Navy in his discretion to deliver to the custody of the city of New Orleans the silver service and silver bell presented to the United States for the cruiser *New Orleans*; to the Committee on Naval Affairs.

H. R. 3565. An act to authorize the charging of tolls for the passage or transit of Government traffic over the San Francisco-Oakland Bay Bridge; and

H. R. 5380. An act to provide for the conferring of the degree of bachelor of science upon graduates of the United States Merchant Marine Academy; to the Committee on Commerce.

H. R. 3756. An act to require the recording of agreements relating to patents; to the Committee on Patents.

H. R. 3959. An act to provide for the burial in the Memorial Amphitheater of the National Cemetery at Arlington, Va., of the remains of an unknown American who lost his life while serving overseas in the armed forces of the United States during the Second World War; to the Committee on Military Affairs.

H. R. 4362. An act to abolish the Parker River National Wildlife Refuge in Essex County, Mass., to authorize and direct the restoration to the former owners of the land comprising such refuge, and for other purposes; to the Committee on Agriculture and Forestry.

H. R. 5574. An act to amend paragraph 8 of part VII, Veterans Regulation No. 1 (a), as amended, to authorize an appropriation of \$1,500,000 as a revolving fund in lieu of \$500,000 now authorized;

H. R. 5594. An act to reserve for the use of the United States all deposits of fissionable materials contained in the public lands;

H. R. 5644. An act to facilitate voting by members of the armed forces and certain others absent from the place of their residence, and to amend Public Law 712, Seventy-seventh Congress, as amended; and

H. J. Res. 273. Joint resolution authorizing and requesting the President to issue annually a proclamation designating December 15 as Bill of Rights Day; ordered to be placed on the calendar.

ADDITIONAL DISTRICT JUDGE FOR NORTHERN DISTRICT OF CALIFORNIA

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 1163) to provide for the appointment of one additional district judge for the northern district of California, which was, in line 6, after "California", to insert a colon and the following proviso: "Provided, That the first vacancy occurring in the office of district judge in said district shall not be filled: *Provided further*, That unless the President shall sub-

mit a nomination to the Senate to fill the office hereby created within 90 days after the effective date of this act, then in that event this act shall be of no force and effect."

Mr. HATCH. Mr. President, I move that the Senate disagree to the amendment of the House, request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the President pro tempore appointed Mr. HATCH, Mr. McFARLAND, and Mr. WILEY conferees on the part of the Senate.

GOVERNMENT PROPAGANDA ACTIVITIES

Mr. DONNELL obtained the floor.

Mr. WILEY. Mr. President, will the Senator from Missouri yield to me for a few moments?

Mr. DONNELL. I yield to the Senator from Wisconsin.

Mr. WILEY. Mr. President, I have pointed out on many occasions on the floor of the Senate the dangers of the vast propaganda machinery built up by the administration to channel its line of thinking into the public. This danger grows not less but greater with each passing day.

Now, I have addressed the following communication to Attorney General Clark:

DEAR MR. ATTORNEY GENERAL: Attention is directed to section 201 of the Criminal Code prohibiting the use of money for propaganda of executive departments unless expressly authorized by Congress for "any personnel service, advertisement, telegram, telephone, letter, printed, or written matter, or other device intended or designed to influence in any manner a Member of Congress to favor or oppose by vote or otherwise any legislation or appropriation by Congress, either before or after the introduction of any bill or resolution proposing such legislation or appropriation."

I ask frankly and directly if this statute, clear in its purpose, enacted in 1919 is merely a dead letter? Is any active attempt made to analyze possible violations of it?

I refer particularly to the OPA's 1946 estimate of \$2,500,000 for purposes of "information activity." Included in that sum is a quarter of a million dollars for purposes of printing and binding.

Has the Department of Justice looked into this OPA program for possible violation of the Criminal Code? What about the Treasury Department's program propagandizing for the British loan—does that violate the statute in any way?

Is there any limit to the kind of propagandizing that may be done by Government agencies on their "information programs"? If so, what is that limit, and how can the Department of Justice be said to have made any effort to insure that limit is not violated?

I will appreciate the answers to these questions at your earliest convenience. My purpose in presenting them is not partisan and is not designed to stymie any given piece of pending legislation. Rather, it is to insure the fulfillment of the will of Congress in preventing any executive department's use of its vast resources illegally to pressure the legislative branch.

Sincerely yours,

ALEXANDER WILEY.

Mr. President, this letter is self-explanatory, but a few additional facts should be borne in mind regarding it.

On July 16, 1945, the distinguished senior Senator from Ohio [Mr. TAFT] posed this question of section 201's possible application to the Treasury Department's high-pressure campaign for Bretton Woods. We all know how clergymen, educators, and others were brought to Washington to be fed the "Treasury line" on how to influence a favorable vote on that financial program.

The Bretton Woods drive is amateurish compared to the propaganda campaigns since inaugurated. Do all my colleagues fully realize the fact that practically all of the elements for a Joseph Goebbels propaganda ministry exist today in innumerable Government agencies? This is not mere conjecture.

Let me cite several items as proof, from a report I have received from OPA regarding its propaganda activities.

First. The OPA Radio Branch (a) arranges for and writes the Administrator's weekly talk, broadcast "live" or by transcription over 400 stations.

(b) It prepares weekly copy for home-maker news for 1,200 women broadcasters and weekly copy for all farm broadcasters.

(c) The branch supplies all radio stations with three spot announcements a week.

(d) It has a weekly transcribed dramatic show over 470 stations.

Second. The OPA News Branch during the calendar year 1945 issued 2,233 press releases. The prospects are that there will be a continued need for issuing at least as many releases in the calendar year 1946 as in 1945.

Third. The OPA Trade Relations Branch publishes a weekly publication on food facts which goes to 2,200 food-trade publications and organizations throughout the country.

Fourth. The OPA Visual Services Branch in recent months has prepared art for 8 posters and about a dozen major "reconversion" booklets, a cartoon-type film strip, and miscellaneous art, graphics, and lay-outs for handbooks, exhibits, and other purposes.

Fifth. The OPA Magazine Branch maintains contact with all important national magazines, weekly and monthly. On request it supplies these magazines with articles on OPA topics written for the signature of the Administrator and other leading OPA officials. It also writes articles for national publications and edits articles written for national publication by OPA executives. Between March 1945 and January 1946, leading national magazines with a combined circulation of 92,894,000 carried 49 major articles pertinent to OPA activities.

Sixth. The OPA Community Service Division prepares materials for the information panels of price-control boards, adapted for the use of women's clubs, civic clubs, consumer organizations, trade unions, farm groups, schools, and veterans' groups. Close relations by visit, mail, and phone, are maintained with approximately 150 religious, civic, educational, and racial groups, covering every community of the country. The total memberships of these groups is over 20,000,000.

This is just the bare outline of OPA's propaganda ministry. So what, some may say? So this: Beware of any Federal instrumentality with so vast a series of octopus tentacles around every pipe line of American thought. Beware of political uses of such controls. Beware of illegal pressures exerted by such an organization.

Have we forgotten so soon the lesson of Nazi propaganda on how the thinking of a worthy people may be channeled along vicious lines by a ministry of public enlightenment?

Where are the liberals to object to this vast extension of Government propaganda power here at home? Where are those who denounced Nazi-type government propaganda by foreign countries? They are silent. Their liberalism is one of name only.

But I, for one, will not sit idly by to watch this or other propaganda ministries indefinitely perpetuate and increase their powers. That is why I have written to the Attorney General and that is why I shall be watching closely for his answer.

CALL OF THE ROLL

Mr. WHITE. Will the Senator from Missouri yield to me to make a point of no quorum?

Mr. DONNELL. I yield.

Mr. WHITE. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Gurney	O'Mahoney
Andrews	Hart	Overton
Austin	Hatch	Pepper
Bailey	Hawkes	Radcliffe
Ball	Hayden	Reed
Bankhead	Hickenlooper	Revercomb
Barkley	Hoey	Russell
Bilbo	Huffman	Saltonstall
Brewster	Johnson, Colo.	Shipstead
Briggs	Johnston, S. C.	Smith
Brooks	Knowland	Stanfill
Buck	La Follette	Stewart
Bushfield	Langer	Taft
Butler	Lucas	Taylor
Byrd	McClellan	Thomas, Okla.
Capehart	McFarland	Thomas, Utah
Capper	McKellar	Tobey
Carville	McMahon	Tunnell
Connally	Magnuson	Tydings
Cordon	Maybank	Vandenberg
Donnell	Mead	Wagner
Eastland	Millikin	Walsh
Ellender	Mitchell	Wheeler
Ferguson	Moore	Wherry
Fulbright	Morse	White
Gerry	Murdoch	Wiley
Gossett	Murray	Willis
Green	Myers	Wilson
Guffey	O'Daniel	Young

Mr. BARKLEY. I announce that the Senator from Virginia [Mr. GLASS] is absent because of illness.

The Senator from Alabama [Mr. HILL] is absent because of illness in his family.

The Senator from Florida [Mr. ANDREWS] and the Senator from West Virginia [Mr. KILGORE] are necessarily absent.

The Senator from New Mexico [Mr. CHAVEZ], the Senator from California [Mr. DOWNEY], and the Senator from Nevada [Mr. McCARRAN] are detained on official business.

Mr. WHERRY. The Senator from New Hampshire [Mr. BRIDGES] is necessarily absent.

The Senator from Wyoming [Mr. ROBERTSON] is absent because of illness in his family.

The PRESIDENT pro tempore. Eighty-seven Senators having answered to their names, a quorum is present.

VOTING BY MEMBERS OF THE ARMED FORCES AND CERTAIN OTHERS

Mr. GREEN. Mr. President, will the Senator from Missouri yield to me?

Mr. DONNELL. May I inquire, for the RECORD, the purpose for which the Senator desires me to yield?

Mr. GREEN. I desire to ask unanimous consent to bring up, as in legislative session, the soldiers' vote bill, so-called, which yesterday was passed unanimously by the House of Representatives.

Mr. DONNELL. Mr. President, I am pleased to yield, with the qualification that if controversy should develop over the bill and as much, say, as 30 minutes should be consumed without disposing of it, the Senator will permit the bill to be withdrawn so that I may proceed. If that is agreeable to the Senator from Rhode Island I shall be pleased to yield on that basis.

Mr. GREEN. The condition is entirely agreeable to me.

The PRESIDENT pro tempore. Without objection, the Senator from Rhode Island is recognized.

Mr. GREEN. Mr. President, I trust the bill will be passed by the Senate promptly and unanimously, as it was by the House. Identical bills were introduced last March first by Representative BONNER in the House of Representatives, and by myself, in behalf of myself and the Senator from Illinois [Mr. LUCAS], in the Senate. The Senate bill was referred to the Committee on Privileges and Elections, and hearings were held, at which representatives of the Army and Navy and merchant marine and the organization of the secretaries of State of all the States of the United States were heard. As a result the bill was reported favorably and unanimously to the Senate, and is now on the calendar. But the House of Representatives, although we had preceded it in holding hearings, has beaten us to it, and the bill passed the House yesterday unanimously.

I should like to summarize briefly—

Mr. BYRD. Mr. President, what is the number of the bill?

Mr. GREEN. The number of the Senate bill is S. 1876. The number of the House bill is H. R. 5644.

The PRESIDENT pro tempore. The calendar number of the bill is 1071.

Mr. GREEN. Yes; its number on the calendar is 1071. I should like to explain the nature of the bill. I suppose the proper procedure would be to consider the Senate bill and perfect it by substituting the bill which passed the House. Although it would then bear a different name, I am far more interested in having the bill passed promptly than I am in whose name is attached to it.

The PRESIDENT pro tempore. The Senator has the right to have the House bill considered.

Mr. GREEN. With respect to the bill—and I can speak of the Senate bill and the

House bill interchangeably, because the two bills are identical—minor amendments were placed in the bill by the Senate committee in reporting it back to the Senate. Those amendments have all been adopted by the House. Certain minor amendments were suggested in the House, and those are entirely agreeable, at least to me as chairman of the committee. I was instructed to report the bill.

The PRESIDENT pro tempore. The House bill will be stated by title for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H. R. 5644) to facilitate voting by members of the armed forces and certain others absent from the place of their residence, and to amend Public Law 712, Seventy-seventh Congress, as amended.

Mr. GREEN. The purpose of both bills was to amend the present servicemen's voting law so as to provide members of the armed forces, members of the merchant marine, and civilians overseas officially attached to and serving with the armed forces, the opportunity of voting, irrespective of the existence of a war. The present law is effective only in time of war.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. GREEN. I yield.

Mr. BYRD. Does the House bill differ from the Senate bill?

Mr. GREEN. They are identical, as originally introduced.

Mr. BYRD. Are they now identical? Is the House bill which the Senator wishes to have considered the same as the Senate bill?

Mr. GREEN. As I just stated, certain amendments were proposed by the Senate committee, and those have been adopted by the House. Certain additional amendments were adopted yesterday by the House. They are very minor amendments, which are entirely agreeable. They do not change the substance of the bill at all.

Mr. BYRD. There seems to be only one copy of the bill at the desk. Is there only one copy of the bill which it is proposed to consider?

Mr. GREEN. It was printed by the House. I have a copy of it.

Mr. BYRD. I understood the Senator to say it was amended. It was passed by the House only yesterday.

Mr. WHITE. Mr. President, will the Senator yield?

Mr. GREEN. I yield.

Mr. WHITE. I had understood that this bill came to the Senate with the unanimous approval of the Committee on Privileges and Elections.

Mr. MCFARLAND. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. MCFARLAND. The Senate is in executive session. How can it consider legislative business?

The PRESIDENT pro tempore. By unanimous consent, which has been obtained.

Mr. WHITE. Mr. President, I had understood that the bill came here with the unanimous approval of the Committee on Privileges and Elections. I have

talked with many Members on the floor today, and I have found complete approval on the part of minority members. However, to my regret I have received word from one minority Senator that he objects to consideration of the bill at this time, and I am compelled reluctantly to voice that objection.

The PRESIDENT pro tempore. Objection is heard.

NOMINATION OF JAMES K. VARDAMAN, JR.

The Senate resumed consideration of the nomination of James Kimble Vardaman, Jr., to be a member of the Board of Governors of the Federal Reserve System.

The PRESIDENT pro tempore. The pending question is, Will the Senate advise and consent to the nomination of James Kimble Vardaman, Jr., to be a member of the Board of Governors of the Federal Reserve System.

Mr. DONNELL. Mr. President, prior to the recess taken yesterday afternoon I had discussed, in connection with the nomination of Commodore James K. Vardaman to be a member of the Board of Governors of the Federal Reserve System, the far-reaching and comprehensive importance of the duties of a member of the Board of Governors; indeed, they are of such far-reaching and vital importance that their performance may affect the welfare of every man, woman, and child in the United States. The very detailed statement of those duties, which I shall not repeat, clearly indicates the intricacy, delicacy, importance, and widespread value of the functions of the great Federal Reserve System and of the Board of Governors of that System.

I discussed also the question as to whether the Senate has strong, convincing, and preponderant affirmative reason to believe that Commodore Vardaman possesses the qualifications which are essential in order that his appointment to membership on the Board of Governors be in the interest of the people of our Nation. In the course of the discussion of whether or not the Senate does have such strong, convincing, and preponderant affirmative reason, I considered and discussed the evidence as it relates to whether Commodore Vardaman is the possessor of such experience or ability along business and economic lines as would qualify him to deal capably with the problems with which he, as a member of the Board of Governors, would be confronted.

I discussed the question as to whether or not the Senate has reason to believe that Commodore Vardaman possesses freedom from a tendency to allow himself to be influenced in the performance of duty by any consideration which is not consistent with the public welfare, and in that connection I had considered in detail the evidence afforded by certain illustrations which I had pointed out to the Senate as clearly demonstrating the strong tendency of Commodore Vardaman to color his statements to his own advantage.

I had discussed in particular the fact that it was of advantage to the Commodore to have the subcommittee under

the impression that his service with the Vardaman Shoe Co. had terminated prior to the occurrence of a certain tampering with the inventory of that company to which the Commodore referred in his evidence. I pointed out that on three different occasions the Commodore, in the course of his statement or testimony, had taken the position that he left the company in June 1941. I pointed out, by frequent reference to the minutes of the company, down to and including the very day on which the company went into bankruptcy, February 13, 1942, the constant familiarity of the Commodore with the affairs of the company and his participation therein.

I pointed out also that the Commodore in his testimony stated that when he joined the company it was understood that he would not be active, but would serve as chairman of the executive committee and director, and in that capacity advise and direct, with a view of saving the company. But I pointed out also that, although the Commodore made a clear effort to make it positively convincing to the committee that it was understood from the outset of his joining the company that he would not be active in its affairs, the very minutes of the company show that on the day and at the meeting in which he was engaged, he himself stated that he desired to be elected to the office of treasurer, and agreed that if satisfactory to the board of directors he would start work on August 15, 1939, and devote his full time, effort, and ability to the business of the company. I also pointed out that on the same day, August 10, 1939, the board of directors adopted certain resolutions, in the course of one of the preambles to which it was stated that—

It is the desire of the board of directors that he—

Mr. Vardaman—

become actively associated with the business and affairs of the company and that he devote his full time and efforts on behalf of the company.

Mr. President, I also discussed the fact that Mr. Vardaman in his testimony took credit for having recommended to Mr. Gentry, the trustee in bankruptcy of the Vardaman Shoe Co., the appointment of Mr. Bittner, who is described by Mr. Gentry as one of the most able businessmen he had met, one of the hardest workers he had ever known, and very capable. I pointed out the fact that Mr. Gentry had stated, on the contrary, that Mr. Vardaman had made no such recommendation to him.

In the course of the presentation of the facts to which I have adverted, some question was raised by the distinguished Senator from Colorado [Mr. MILLIKIN], who sits upon this side of the aisle, as to the dates on which the Commodore joined the company and on which he attained certain official positions with the company. The facts, as shown by the evidence, clearly demonstrate that the Collins-Morris Shoe Co. and the Vardaman Shoe Co. were one and the same company; that the name of the company was originally Collins-Morris Shoe Co., and that it was subsequently changed to Vardaman Shoe Co.

In order that the record may show at one and the same point the dates on which and the official capacities in which Mr. Vardaman was engaged by the company, I state at this time that the record shows that he was elected treasurer on August 10, 1939, and also that on the same date he was elected to membership on the executive committee of the company. The record also shows that his election as president of the company occurred on January 5, 1940. The record further shows that on March 11, 1940—as is shown at page 15 of the minutes of the company—Mr. Vardaman was employed as the financial manager of the company, under a resolution to assure him continued employment for a period of 15 years, this employment to be terminated for cause only. The record further shows that the date on which occurred the change of name from Collins-Morris Shoe Co. to Vardaman Shoe Co., was November 29, 1940, to become effective on December 1, 1940. This information respecting the change of name appears at page 75 of the minute book of the company.

Mr. President, I may add that the testimony shows that the suggestion of the change of name of the company came from Mr. Ineichen, who, according to the testimony presented yesterday, was found by Mr. Gentry to be conceited and arbitrary, who was known by Mr. Gentry to have in some respects, apparently, practically taken over the management of the business, and who was discharged by Mr. Gentry after the latter had become the trustee in bankruptcy.

Mr. President, in the course of the debate yesterday there occurred—as is shown at page 2895 of the CONGRESSIONAL RECORD—the following statement by the Senator from Colorado [Mr. MILLIKIN]:

When the Senator comes to that, I hope he will remember that Commodore Vardaman testified that none of the creditors were fooled as to the position of the company and will give us the benefit of his observations on that.

Mr. President, I am unable to say how many, if any, of the creditors were—to adopt the language used by the Senator from Colorado—fooled; but I point out to the Senate the fact that the testimony shows that at the time when the company went into bankruptcy, there was a very substantial amount of indebtedness owing by the company; indeed, the items of indebtedness which were created solely between November 30, 1941, and the date of the bankruptcy, and which were unpaid, I may say, at the bankruptcy, aggregated \$116,925.21, those being solely claims in excess of \$1,000. I do not have at hand—although there is a reference in the testimony which is somewhat vague, not complete—information as to the aggregate of the liabilities; but obviously the liabilities were in excess of the figure I have stated, for the figure to which I have referred is made up solely of claims in excess of \$1,000, covering purchases dated subsequent to November 30, 1941.

Mr. President, regardless of whether the creditors were fooled, I say that the testimony further shows that Mr. Bittner purchased the claims of a great many

of the creditors, I have forgotten just how many; if it becomes important I shall supply the information for the RECORD; and my recollection is that he testified he paid 33 1/3 cents on the dollar for the claims which he bought. It seems passing strange that the creditors of that company, to as great an extent as I have indicated, would proceed to extend credit within a period of 2 months and slightly more before the bankruptcy, solely in order to be willing to lose money upon the transactions involved.

On the question of whether the creditors were kept advised by Commodore Vardaman as to the conditions, I undertake to say that there is a very significant entry in the minute book under date of November 28, 1939. Under that date the following minute will be found, and I now quote from the minute book of the company:

Mr. Vardaman stated that in his opinion, due to the circulation of inaccurate and untrue statements relative to the production of the company, profits and losses, orders received, and in general the business of the company, he deemed it advisable that no information be given to anyone, including the stockholders of the company, except through the medium of the treasurer's office, and that no statements of the company or copies of the minutes of the board of directors' meetings be given to anyone unless by order of the treasurer.

The treasurer of the company was Mr. Vardaman. Thus, it is, as evidenced by the expression of opinion by Mr. Vardaman to the board on November 28, 1939, that information within the possession of the company as to the production of the company, profits and losses, orders received, and, in general, the business of the company, was not to be given to anyone, even to a stockholder of the company, except through the medium of the treasurer's office and only by order of the treasurer.

It is significant to observe that immediately following the excerpt to which I have referred in the minutes of November 28, 1939, there appears the following:

Considerable discussion was had on this matter, particularly by Mr. John A. Ald, who stated that Newhard Cook & Co. has many inquiries from stockholders or parties interested in this company and feels that, due to the fact its investment and duty to its customers who have invested their money in this company, that they should be able to confidentially advise their clients relative to the earnings, status, or other available information. He assured the directors that the statements and copies of minutes heretofore received are kept in a confidential file, subject to examination by no one other than the partners of his firm. It was then agreed by all directors present that all information relative to production, profits, losses, orders, and financial statements shall be published and made only at the direction of the company's treasurer.

So, Mr. President, with this policy of secrecy, a secrecy which confined itself to the breast of the treasurer of the company, Mr. Vardaman, I undertake to say there is no such showing as would seem to have been implied by the understanding of the Senator from Colorado as to whether the creditors of the company were fooled during the course of the extension of credit by such creditors.

Mr. President, I now address myself to certain further illustrations of the tendency of Mr. Vardaman to color his statements to his own advantage. I invite the attention of the Senate to page 31 of the minutes of the company on which we find the following language:

He—

Referring to Mr. Vardaman—

further stated that, generally speaking, the organization was taking on the form of an efficiently operated corporation, in comparison with the loose way of operations in the past.

Yet, Mr. President, notwithstanding this complimentary allusion by Mr. Vardaman to the form which the organization was taking on, he being at the time the treasurer of the company, we find that on September 17, 1940, only a few months after this statement as it appears in the minutes, Mr. Vardaman, reporting on the condition of the company, commented on the company's operating loss for the quarter ending August 31, 1940, as being \$28,103.29, and the 9 month's loss for the year as amounting to \$49,928.50. On this occasion—that is September 17, 1940—we find Mr. Vardaman stating in the minutes of the company that these losses, in his opinion, would not be repeated.

Mr. President, as bearing on the question whether there is affirmative reason to believe that Commodore Vardaman would not be influenced in the performance of duty by any consideration which was not consistent with the public welfare, I invite the attention of the Senate to a further illustration, namely, the conduct of Commodore Vardaman relative to his own compensation in the shoe company. The original agreement with respect to his compensation occurred upon the date on which he became connected with the company, namely, August 10, 1939. From the minutes of that date we find Mr. Vardaman had expressed his willingness to become associated with the company at an initial salary of \$625 a month, on the condition that he be given the right to purchase a certain number of shares of the treasury common stock of the company at \$2 a share, and that certain other options to purchase additional stock be given individually by Mr. Collins, Mr. Morris, and Newhard Cook & Co. That was the arrangement which was entered into at that time by the company with respect to Mr. Vardaman's compensation. The amount of salary to be paid by the company to Mr. Vardaman was \$625 a month.

On January 5, 1940, the date on which occurred the withdrawal of Mr. Collins as president, the company then being in a financial condition worse than had been anticipated, we find Mr. Vardaman assuming the duties of president. Notwithstanding the financial condition of the company we find that on January 23, 1940, at page 4 of the minute book, Mr. Vardaman stated to the board of directors that he was not satisfied with the contract that he then had with the company and that, due to Mr. Collins' resignation, the contract would have to be revised.

Then on February 26, at page 12 of the minute book, we find that Mr. Morris reported on the contemplated employment of another gentleman as a salesman for the company. Then follows this significant language:

Mr. Vardaman stated that he desired a definite contract with the company guaranteeing him continuity as an officer of the company for a period of 15 years, and at the suggestion of the board he was requested to confer with the company's attorney, Mr. Kappel, and arrange for the drafting of a contract to be submitted to the board for acceptance or rejection at a later meeting.

On March 11, 1940, at page 15 of the minute book, there are set forth certain resolutions, as follows:

Be it resolved, That the company employ Mr. James K. Vardaman, Jr., as its financial manager, and to assure to him continued employment for a period of 15 years, which employment shall be terminated for cause only, as set out in draft of contract submitted to the board; be it further

Resolved, That the company pay to the said James K. Vardaman, Jr., as and for his salary for services rendered and to be rendered, the sum of \$7,500 annually in installments of \$625 per month and that as additional compensation to pay to him a sum equal to 5 percent of the net profits or earnings of the company, which percentage shall be figured only after full reserve has been set up for all interest on loans and debentures, preferred dividends accrued and accumulated, and fund for retirement of preferred stock as provided by stockholders' agreement.

Then follow certain resolutions with respect to options to purchase stock and the cancellation and termination of previous employment contracts.

The other resolutions read as follows:

Be it further resolved, That the company give and grant to Mr. James K. Vardaman, Jr., and his assigns, options to purchase 2,260 shares of the company's common capital stock at \$2 per share, which option shall continue for a period of 2 years from April 1, 1940, and which shall terminate upon being exercised or upon removal, death or resignation as an employee or officer of the company.

Mr. President, on April 23, 1940, approximately 6 weeks after these incidents of March 11, we find at page 29 of the minute book that certain resolutions were set aside and new ones were adopted, because, as I understand, of some defect in the notice which had occurred back in March 1940.

Then on July 1, 1941—and I call attention to the fact that this was after June 1941—we find the following transpiring, as appears from page 120 of the minute book:

Mr. Vardaman called to the attention of the board of directors his employment contract, stating that, in his opinion, it was ambiguous, and that it provided for the payment to him of 5 percent of the profits of the company, as additional salary.

Then, Mr. President, the following resolution was unanimously adopted by the directors, who were present, Mr. Vardaman being among them:

Be it resolved, That the employment contract of Mr. James K. Vardaman, the company's president, be understood to provide that he shall receive as additional compensation for his services, 5 percent of the profits of the company for each 6 months'

period, and which shall be figured prior to setting up or paying income taxes and shall be paid semiannually.

Mr. President, in connection with this matter it should be noted also that the minutes then recite:

On the question: Mr. Postel, who voted affirmatively on the above resolution, questioned the payment of additional salary on a semiannual basis. Therefore, it was understood that this matter shall be again brought to the attention of the board after the expiration of 1 year.

Thus, Mr. President, although this company was in the difficult financial condition which Mr. Vardaman himself described so vividly in his testimony, we find that Mr. Vardaman had demonstrated, first, that he believed he should have a 15-year contract of employment, but, far more significant than that, that he desired a percentage bonus, computed not on the profits of each year separately, but on each half year's profits separately. The effect of this is obvious. If the company should make money during the first half of the year and lose the money the next half of the year, even if the loss should exceed the gain for the first half, he, Mr. Vardaman, would obtain from the company, which certainly was in dangerous financial straits and difficulties, his percentage on the first half year even if the losses of the second half of the year should wipe out the profits for the entire year.

Mr. President, I say that it is not strange that Mr. Postel questioned the payment of this additional salary on a semiannual basis, and it is not strange that the board regarded the point of such merit that, even though Mr. Vardaman was insisting upon a change in his contract and secured such a change from the board, it was with the understanding that the matter would again be brought to the attention of the board after the expiration of 1 year.

Mr. President, in considering the question as to whether there is affirmative reason to believe from the evidence that Commodore Vardaman would not be influenced in the performance of duty by any consideration which is not consistent with public welfare, I call attention to this significant fact: On March 12, 1941, a certain letter was addressed to Mr. Vardaman by Mr. Paul de Coster, who was the comptroller of the company, in the course of which letter, addressed to Mr. Vardaman at Boston, Mass., occurs a sentence which I shall read. Before reading the sentence I should say that enclosed in the letter, according to its terms, were a balance sheet as of February 28, 1941, a profit and loss statement for the months ending December 31, 1940, January 31, 1941, and February 28, 1941, and for the quarter ended February 28, 1941. The particular sentence to which reference is made reads as follows:

The raw material and supplies inventory as shown in the balance sheet is estimated on the basis used in December 31, 1940, and January 31, 1941, in accordance with our phone conversation of yesterday.

I submit, Mr. President, that although Commodore Vardaman claims not to remember that telephone conversation

with Mr. de Coster, and so testified, the commodore further states that he certainly would not say that he did not receive the letter of March 12, 1941.

Mr. MILLIKIN. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. MURDOCK in the chair). Does the Senator from Missouri yield to the Senator from Colorado?

Mr. DONNELL. I yield.

Mr. MILLIKIN. How does De Coster stand up in the Senator's mind—as a reliable or as an unreliable witness?

Mr. DONNELL. Mr. President, as I stated yesterday De Coster, to my mind, made a truthful affidavit respecting this letter. I did not go into this detail yesterday, but I do so now in view of the question. He made what I take to be a truthful affidavit concerning the reason for the writing of this letter. When he went upon the stand before the committee, he denied the truthfulness of that portion of the affidavit which pertains to the reasons for writing of the letter or this part of the letter.

To my mind, Mr. de Coster was telling the truth on one occasion or the other. I do not think he was telling the truth on the occasion of his appearance on the witness stand before the committee. I take it that that answers the question of the Senator from Colorado. I think he told the truth when he wrote the letter of March 12, when he made the affidavit with respect to it, and I do not think he told the truth when he testified before the committee at its hearings a few days ago.

Mr. MILLIKIN. May I ask the distinguished Senator whether he believes that De Coster is a reliable, or an unreliable witness?

Mr. DONNELL. Mr. President, I think Mr. de Coster was not telling the truth and was not reliable in his statement repudiating the affidavits, or portions of them. In my judgment, Mr. de Coster was truthful when he made the affidavits, and I shall undertake to show in a few minutes the reasons why, in my opinion, Mr. De Coster changed his testimony, and denied the truthfulness of what he had sworn to in the affidavits. I say he made this denial upon the witness stand before the committee. I regard his affidavits as credible and trustworthy.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. When the Senator hears evidence which, under his theory, is true at one time and which is perjured at another, does he consider the witness giving the evidence as reliable?

Mr. DONNELL. Mr. President, I regard the witness as reliable to the extent that he admitted the execution and signature and physical writing in his own handwriting of the affidavits to which I have referred concerning this matter.

Mr. MILLIKIN. Will the Senator yield further?

Mr. DONNELL. I yield.

Mr. MILLIKIN. Then, the Senator's criticism as to De Coster goes to the hearings before the subcommittee. Is that correct?

Mr. DONNELL. That is correct, yes.

Mr. MILLIKIN. And at those hearings Commodore Vardaman challenged the correctness of the statement that De Coster had telephoned him. The Vardaman testimony was not impeached in any way. Does the Senator put Vardaman's unimpeached testimony against the testimony of a man who, under the Senator's own theory, perjured himself on either one or another occasion?

Mr. DONNELL. Mr. President, I am very glad the Senator raised that question. As I have stated, in my judgment De Coster—and I may say likewise Reyburn, to whom I shall come in a few minutes—told the truth in the affidavits which they made, and of certain, of which I have, photostatic copies, and also have confirmed copies, all of which were presented to the committee. In my judgment the perjury in this case occurred in connection with the statements by De Coster and by Reyburn in the committee hearings, and not in their affidavits.

I may say, also, Mr. President, with all due respect to Commodore Vardaman, I believe the facts are fully susceptible of the inference which I draw that the statements made in the affidavits respecting Commodore Vardaman were true, notwithstanding the commodore's denial of them in the hearings before the subcommittee of the Senate Committee on Banking and Currency.

Mr. MILLIKIN. Will the Senator yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. Would the Senator be good enough to enlighten the Senate of the usual instruction of a judge to a jury where a man admits perjury in the course of a trial?

Mr. DONNELL. Mr. President, I have never served as a judge. I have heard instructions. To my mind that is not the question here. The question, as I shall develop it in a few minutes, relates to whether or not there is evidence from which the Senate may draw the inference and conclusion that Commodore Vardaman had knowledge of and complicity in the tampering with the inventory, which tampering he states in his own statement occurred. I undertake to say that the fact that certain affidavits were made by these two men, Reyburn and De Coster, and the further fact, testified to by Frank E. Williams, a reputable attorney, a member of one of the leading law firms of St. Louis, that Commodore Vardaman requested the destruction of these affidavits, which statement is denied by Commodore Vardaman and by Captain Clifford and by Mr. Bittner, who does not remember their destruction and does not know of their having been destroyed—I say that the testimony of Mr. Williams to the effect I have indicated, that Mr. Vardaman desired those affidavits destroyed, leaves to the Senate the possibility of drawing one of two inferences, either that Commodore Vardaman desired untrue affidavits destroyed, or that he desired the affidavits which contained the truth to be destroyed.

Mr. MORSE. Mr. President, will the Senator from Missouri yield?

Mr. DONNELL. I yield.

Mr. MORSE. Does the Senator feel that a committee of the United States Senate, and the United States Senate itself, should be expected to meet a higher test when investigating a matter such as this than that imposed upon a jury under the law when it is sought to protect the jury by certain charges as to human frailties?

Mr. DONNELL. Mr. President, it is very difficult in the absence of precedent or of decisions—and I know of none such—to determine the relative duties of a jury and of the United States Senate. I may say, however, in response to the distinguished Senator from Oregon, that to my mind the Senate of the United States, bearing in mind that an appointment of this type is of interest and concern to every man, woman, and child in the United States of America, owes the duty of using the highest degree of care in considering every circumstance, every suspicion, every charge, every statement, every inference in determining whether the man nominated is capable and possesses the necessary qualifications.

I may say further that, to my mind, when it comes to selecting a man who, with six other men, controls the greatest and most powerful financial system in the world, the Senate of the United States should not be satisfied with merely accepting a negative failure to prove the man's disability. To my mind, the Senate should require in its own mind affirmative showing from some source that the man is capable of performing the duties of the office and possesses the necessary qualifications.

I may say that in your private business in employing a person to fill a responsible position involving fiduciary duties, you, sir, Mr. President, as a distinguished member of the bar, or as a businessman, or whatever your profession or occupation at the moment might be, should and would consider with care all the facts, and would not rely upon a mere abstract presumption that if the evidence were balanced in a certain way, or if there were no overwhelming balance one way or the other, the prospective employee possessed the essential qualifications.

To my mind the Senate is in a position very analogous to that, added to which is the fact that the Senate is safeguarding the interests of all the people of the United States, and that when there is a series of suspicious circumstances, which to my mind are easily susceptible of the inference which I shall suggest to the Senate a little later concerning Commodore Vardaman and the tampering with the inventory. The Senate should, if it commits any error at all, commit it on the side of the people of the United States in seeing that no man be placed in this office against whom such a suspicion may with reasonable justice or reasonable inference lie and be lodged.

I do not mean to say, Mr. President, that merely because a charge is made against a man the Senate should therefore refuse to confirm his nomination, but I do say we are here in the capacity of guardians and trustees of the interests of every man, woman, and child in the United States, and that as such we should

consider not merely the technical rules, not merely the abstract principles, which may be technical in their nature, but should consider also the fundamentals, the suspicions, the suspicious circumstances, the conduct of the man under charge, with relation to facts of so serious a nature as I shall demonstrate in a few minutes.

I yield now to the Senator from Oregon. Mr. MORSE. Mr. President, I think I agree with everything the Senator has just said in regard to the responsibilities of Members of this body. I would make the further comment that I think the standard instructions to a jury in regard to the credibility of a witness once he has been found to be false in his testimony, is a very proper safeguard that ought to be used in surrounding a jury to save it from making serious mistakes of inference when they come to forming judgment. But certainly Members of the United States Senate ought to recognize that the finding of a man to be false in one part of his testimony does not create a conclusive presumption that everything else he submits in the case is necessarily false.

Mr. DONNELL. May I interrupt the Senator to add to that certain conduct of the man under investigation, Commodore Vardaman, will be established with respect to these affidavits, and, whether the affidavits are true or whether they are false, the conduct of Mr. Vardaman, coupled with the affidavits, regardless of their truth or falsity, regardless of whether De Coster and Reyburn on the witness stand are held to be credible—I say that those facts, coupled together, may be very strongly significant to the Senate as to the qualifications of Commodore Vardaman.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. MORSE. I also agree with the Senator in that statement, and I simply return to the point I was making, namely, that I think there is a duty which rests upon us to scrutinize very carefully the record in this case and the testimony of De Coster, because I think it is clear from the record, as I have seen it thus far, that he certainly was not reliable in one part of his testimony. However, that does not justify us, in my judgment, in not scrutinizing very carefully to see whether, when he signed this affidavit, he was not speaking the truth. Because after all we are not trying either Mr. Vardaman or Mr. de Coster. We are endeavoring to ascertain whether or not Mr. Vardaman has the qualifications that meet the tests the Senator from Missouri laid down yesterday in his speech. I might add that in the realm of investigation there is also a pretty good police technique that should be kept in mind, too, and that sometimes it takes a crook to catch a crook.

Mr. MILLIKIN. Mr. President, will the Senator from Missouri yield?

Mr. DONNELL. May I first make one observation, please?

Mr. MILLIKIN. Yes; indeed.

Mr. DONNELL. The Senator from Colorado made reference to perjury. I want to make an observation, which I hope will not cause the Senator to take

offense, for it is not intended in that way. At one point in the testimony before the subcommittee certain photostatic copies, of which I have copies—in fact I have the original photostatic copies, being the exhibits—were presented to two witnesses, Mr. de Coster and Mr. Reyburn. When one of them was presented to Mr. Reyburn and he was asked whether or not the name "Sam Reyburn" at the bottom of it was his signature, he declared in substance, "Mr. Chairman, this a direct forgery." Then in a very few minutes, indeed I am not sure but that I might say within a very few seconds, it was suggested by one of the Senators upon the committee that the FBI be brought into the matter in view of this very serious charge. Furthermore, it was suggested that a Treasury Department expert in handwriting be brought in, and he was brought in, and he testified that the paper was not signed by the same person who had signed certain documents bearing the admitted signature of Mr. Reyburn.

Mr. President, a similar situation, though not with the word "forgery" involved, was presented when copy of an affidavit was presented to Mr. de Coster.

Mr. President, although these two men, De Coster and Reyburn, each testified that he had signed a document in the office of Frank Williams, attorney at law, St. Louis, of the firm of Fordyce, White, Mayne, Williams & Hartmann, who represented great interests, as were testified to by Mr. Williams—although these two men, Reyburn and De Coster, as I say, admitted that they did sign papers claiming duress, intimidation, and cajolery in connection with the signature, nevertheless, each of them then, after having admitted it, denied the truthfulness of certain statements contained in these documents—the photostatic documents to which I refer.

The evidence will show, Mr. President, and I shall come to it—I am anticipating it slightly—that clearly these photostatic copies of two affidavits of the five or six which are in evidence, the two which were prepared in the office of Mr. Williams, were copies of conformed copies which a stenographer in the office, Martha Harris, had, as every lawyer realizes is the custom in many offices, conformed by writing the words "Sam Reyburn" and "Signed" in her own handwriting and also the word "seal" of the notary and the word "signed" in connection with her own name. So that instead of forgery, I think the evidence shows that there was nothing whatever wrong with respect to these two documents.

The point I am now leading up to is this: Later on in the testimony, during the course of the proceedings, the word "perjury," to which the Senator from Colorado has referred this afternoon, was mentioned by the Senator from Colorado in a most impressive way before the one witness, Mr. Bittner, who had made a statement which the Senator regarded as improbable—and it may have been improbable—upon what I regard to be an immaterial matter, so far as it relates to the qualifications of Mr. Vardaman. Then the distinguished Senator from Colorado read with great impressiveness,

as he always speaks and reads, the statute of the United States of America relating to perjury committed by individuals who appear before Senate or other congressional committees.

I desire to point out to the Senate, and I want it in the Record so that he who reads may run, that the persons who by their own statements had signed affidavits and then repudiated their contents, were not admonished by the Senator from Colorado or any other member of the committee with respect to perjury. I undertake to say, Mr. President, that by the very admonition to Mr. Bittner upon the solemn subject of perjury and by the very dramatic methods used in connection with the charge of forgery, the suggestion of calling FBI agents and Treasury representatives, coupled in the press of that evening with the great scareheads across the top, "Vardaman affidavit shown to be forgery," and in the newspapers of Washington the next morning with the scareheads, "Affidavits held to be forgery," a gross and improper impression may readily have been created in the minds of the Members of the Senate which is not justified by the testimony in this case.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. DONNELL. I am glad to yield to the Senator from Colorado.

Mr. MILLIKIN. First, as to whether the witnesses, De Coster and Reyburn, should have been admonished by me in the same way that Bittner was admonished. I did not admonish Reyburn and De Coster because I was thoroughly convinced, as were the other members of the subcommittee, that De Coster and Reyburn were telling the truth when they were before the subcommittee. Bittner was admonished. It was hardly admonition, but his testimony, in the opinion of the subcommittee, of members who heard it, was so reckless and conflicting—and I am making an understatement—that the committee felt and I felt that perhaps he should be advised that having been subpoenaed and having come under subpoena he did not enjoy full immunity in many particulars. Mr. Bittner thanked me for giving him the admonition.

The relevancy of what the Senator has said about De Coster breaks down on this point: His foundational witness, Bittner, swore that a signature which was not the signature of Reyburn was Reyburn's signature, and that became the foundation for the examination of the phony signature.

Mr. DONNELL. May I ask the Senator a question?

Mr. MILLIKIN. Certainly.

Mr. DONNELL. Does the Senator mean to tell the Senate that the signatures upon these two documents, or photostatic copies of documents, namely, exhibits E and F, which papers were testified to by Mr. Williams as having been drawn in his office—does the Senator mean to tell the Senate that those names, "Sam Reyburn" and "Paul de Coster," written there by the handwriting of Martha Harris, were phony signatures?

Mr. MILLIKIN. I say that those signatures were not original signatures, and Bittner swore that they were.

Mr. DONNELL. That was not the question which I asked the Senator.

Mr. MILLIKIN. Does the Senator say that I am correct in that statement?

Mr. DONNELL. The Senator is perfectly correct, that those names were not written by Reyburn and De Coster; but I deny with all the power within me that the names upon exhibits E and F were phony, dishonest, or, in any sense, corrupt, or untrue.

Mr. MILLIKIN. It was perfectly apparent to me from the time those so-called affidavits came before the committee that there were gross irregularities in them; and prior to the time the Senator is referring to I repeatedly questioned the witnesses, intending to suggest to them that they go a little slow with their testimony. But despite that fact, Bittner got on the stand and swore that an obviously copied signature, which was not an original, was, in fact, an original. He having said that, it became perfectly relevant to show that they were not original signatures.

Mr. DONNELL. Does the Senator mean to say to the Senate that in his opinion the names "Sam Reyburn" and "Paul de Coster" at the conclusion of exhibits E and F are forgeries of those names? Does the Senator say that for an instant?

Mr. MILLIKIN. I say that they are not original signatures.

Mr. DONNELL. That was not the question. It is not claimed by me that they are. I do not think they are.

Mr. MILLIKIN. The Senator put Bittner on the stand, and Bittner said that they were originals.

Mr. DONNELL. Bittner was mistaken about it, and explained the situation.

Mr. MILLIKIN. He certainly was mistaken.

Mr. DONNELL. But Mr. Williams explained the situation fully and completely when he came here from St. Louis to testify before the committee.

Mr. MILLIKIN. The end point is this: The Senator has complained about the suggestions of forgery and of perjury. Bittner, the Senator's foundational witness to the testimony of De Coster and Reyburn, stated that a signature was Reyburn's signature which was not Reyburn's signature.

Mr. DONNELL. Mr. President, I think the facts are sufficiently before the Senate. I shall demonstrate in a few minutes, by the clear, convincing, and unqualified testimony of a man who is a member of the character committee appointed by the Supreme Court of Missouri, whose firm represents railroads and insurance companies, and is one of the most outstanding law firms in St. Louis, that these two documents, exhibits E and F, are nothing more nor less, in his judgment, than conformed copies of the documents which Mr. de Coster and Mr. Reyburn admitted that they signed in the office of Frank E. Williams, an attorney at law.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. Will the Senator at the same time show that Bittner said that those conformed signatures were originals?

Mr. DONNELL. I admit that at this time; and I state further, Mr. President, that Mr. Bittner was mistaken in his testimony in that respect.

I furthermore state that he explained to the Senate subcommittee, when the matter was called to his attention, that he was mistaken. He told the subcommittee that he thought that the documents, exhibits E and F, were photostatic copies of original signed documents. Clearly they were not.

Mr. MILLIKIN. He did not explain it, however, until he was cross-examined on it, and until the witnesses showed that they were not original signatures.

Mr. DONNELL. As a matter of fact, Mr. President, Mr. Bittner was not aware of his own mistake, in my judgment, until those two witnesses testified to the effect that they were not their signatures, respectively. Then he did explain it. I venture to say that neither the distinguished Senator from Colorado, the distinguished Senator from Arizona [Mr. McFARLAND], who sits before me, nor the chairman of the subcommittee, the Senator from Maryland [Mr. RADCLIFFE], all of whom are present, will undertake for 1 minute to tell the Senate that the signatures to exhibits E and F were forgeries. The testimony of the expert from the Treasury Department was that there was no evidence of simulation or desire or intent to copy anyone's signature.

Mr. MILLIKIN. That is exactly what was so discrediting in the testimony of Bittner, the Senator's witness.

Mr. DONNELL. I think the facts are clear before the Senate, and they will be made more clear as I proceed.

Referring to the letter of March 12, 1941, from Mr. de Coster to Mr. Vardaman, I recall to the minds of Senators the fact that this letter states, after referring to the balance sheet to which reference is made therein:

The raw material and supplies inventory as shown in the balance sheet is estimated—

Mr. President, before I go further I wish to make a comment on that. Here was a company in dire financial condition. Here was a company as to which Mr. Vardaman himself testified in his statement that—

Shortly after joining the company—

As Senators will recall, that was in 1939—

it was found that its condition was so much worse than anticipated, and its affairs and those of its presidents had become so involved, that the president voluntarily withdrew.

Here was a company as to the precarious financial condition of which I shall have something more to say in a few minutes, from Mr. Vardaman's testimony. Here was a company which was dealing with suppliers of merchandise, who were insisting from time to time—certainly at a later date, and possibly at that time—that the company bring itself up to a 30-day basis. Yet when the balance sheet for the quarter ended February 28, 1941, was to be issued, there was a

telephone conversation, according to this letter, between Mr. de Coster and Mr. Vardaman, pursuant to which the figures to be used in the balance sheet were not the actual inventory—no physical inventory was to be taken—but were estimated on the basis used on December 31, 1940, and January 31, 1941.

In this connection, Mr. President, I hold in my hand exhibit A, which Mr. de Coster testified is not only signed by him but is in his own handwriting. Paul de Coster was the comptroller of the company.

Exhibit A is dated January 29, 1942. Mr. de Coster makes an affidavit with respect to this letter, and undertakes to describe in it what was the occasion for, and the contents of the telephone conversation between him and Mr. Vardaman. The affidavit was signed and sworn to, by the way, before John C. Kappel, notary public, whose term expired April 26, 1944. The affidavit reads as follows:

JANUARY 29, 1942.

I, Paul de Coster, state under oath that on March 12, 1941—

That, by the way, was the date of the photostatic copy of the letter from which I read. As I have stated, this is in his own handwriting—

state under oath that on March 12, 1941, I forwarded to the attention of J. K. Vardaman, Jr., the financial statements of the company as of February 28, 1940—

Then it is difficult to tell whether it is 1941 or what it is. There is a line drawn. I take it obviously to mean 1941.

And in a letter forwarded therewith stated—

I shall read this, and it is exactly the language which I read from the letter—

"The raw material and supplies inventory as shown in the balance sheet is estimated on the basis used in December 31, 1940, and January 31, 1941, in accordance with our phone conversation of yesterday."

The reason for calling attention to the fact that the inventory was on an estimated basis arose by reason of the fact that I had informed Mr. Vardaman over the phone that if the physical inventory was used, the company would show a substantial loss, and he in turn instructed me to use an estimated inventory figure.

PAUL DE COSTER.

JANUARY 29, 1942.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. What was the testimony under oath of Commodore Vardaman as to the telephone conversation?

Mr. DONNELL. The testimony of Commodore Vardaman was that he did not recall such a conversation.

Mr. MILLIKIN. He said there was no such conversation; did he?

Mr. DONNELL. Let us see just what was the testimony of Commodore Vardaman which is called for by the Senator from Colorado.

I read to Mr. de Coster the language to which I have referred, namely—

The raw material and supplies inventory as shown in the balance sheet is estimated on the basis used in December 31, 1940, and January 31, 1941, in accordance with our phone conversation of yesterday.

Then the following questions and answers occurred—

Do you remember the telephone conversation to which Mr. de Coster refers there?

Commodore VARDAMAN. No, I don't.

Senator DONNELL. Now, to refresh your memory I shall ask you to state whether or not that was a conversation in which Mr. de Coster informed you over the telephone that if the physical inventory was used, the company would show a substantial loss, and that you in turn instructed him to use an estimated inventory figure?

Commodore VARDAMAN. Mr. de Coster never gave me such information and I never issued any such instructions to him.

Senator DONNELL. I was reading from exhibit G. Commodore, which has been presented here.

Commodore VARDAMAN. I remember no such exchange, if it took place between Mr. de Coster and me.

Senator DONNELL. Do you remember whether you received this letter of March 12, 1941?

Commodore VARDAMAN. No, I don't.

Senator DONNELL. Do you remember of ever receiving a statement from him to the effect that the raw material and supplies inventory that had been shown in the balance sheet was an estimated one?

Commodore VARDAMAN. Not for that particular month, other than any other month. There was a constant discussion between Mr. de Coster, the auditors, and the officials of the company on the various phases of inventory taken, but nothing like this specifically do I recall.

Senator DONNELL. Would you say that you did not receive that letter of March 12, 1941?

Commodore VARDAMAN. Certainly not.

Senator DONNELL. Would you say you ever made any answer to it if you did receive it?

Commodore VARDAMAN. No; I have no recollection of it, Senator, at all.

Senator DONNELL. You have no recollection of a telephone conversation on that general subject?

Commodore VARDAMAN. No; I have not.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. The Senator has developed two matters: One, a letter; and, the other, a supplemental telephone conversation. The testimony which the Senator has read, I respectfully suggest, contains not the slightest admission by Commodore Vardaman that that conversation was true. At one place he was quite unequivocal about it.

What did De Coster say about that telephone conversation?

Mr. DONNELL. Does the Senator from Colorado desire me to answer that question?

Mr. MILLIKIN. Yes.

Mr. DONNELL. Mr. de Coster denied, on the stand, before the subcommittee, that Mr. Vardaman had told him over the telephone that if the physical inventory were used, the company would show a substantial loss; and he denied that Mr. Vardaman had, in turn, instructed him to use an estimated inventory figure.

Mr. MILLIKIN. Mr. President, will the Senator further yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. So Commodore Vardaman denied it and Mr. de Coster denied it. What is the Senator's basis for reaffirming it here?

Mr. DONNELL. Mr. President, Mr. de Coster swore to it on January 29, 1942, and admitted before the subcommittee that he swore to it and that he wrote the words in his own handwriting. He testified, as I recall—although I am not certain of this without reference to the transcript—that the contents of it were suggested to him by Mr. Bittner, I believe. But, the fact remains that he admitted writing it in longhand in his own handwriting, and that he swore to it on January 29, 1942, 4 years ago.

Mr. MILLIKIN. Mr. President, will the Senator further yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. Does the Senator recall any questioning of Mr. de Coster which indicated that he did not actually swear to it or that he could not remember whether he swore to it? I am speaking of the affidavit which the Senator holds in his hand.

Mr. DONNELL. Mr. President, my recollection is that Mr. de Coster either stated that he did not swear to it or that he did not remember swearing to it. I call attention to the fact that at the bottom of this document appear the words:

Subscribed and sworn to before me this 29th of January 1942.

JOHN C. KAPPEL,
Notary Public.

My term expires April 26, 1944.

Mr. MILLIKIN. Mr. President, will the Senator further yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. Is there the impression of a seal on that paper?

Mr. DONNELL. I see no impression of a seal. However, this is a photostatic copy. I am not certain whether photostatic copies will take the impression of a seal, unless dusted over with lead. I am not sure of that. I am not making a statement about it with any certainty; I merely say that this photostatic copy does not contain the impression of a seal, but it does contain the signature of John C. Kappel, who was the attorney for the company and who was a notary public.

Mr. MILLIKIN. Mr. President, will the Senator further yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. Does it come to this, so far as the testimony before the subcommittee is concerned? Commodore Vardaman denied having made the statement. Mr. de Coster said he had falsified when he said that Vardaman had made it. The Senator now wants the Senate to believe the discredited affidavit of De Coster—by what theory, I have not the slightest notion, unless he wishes to breathe his own honesty into something which is confessedly dishonest.

Mr. DONNELL. Mr. President, in view of the suggestion which has been made by the distinguished Senator from Colorado, I desire to anticipate slightly a portion of the testimony to which reference will later be made.

It will be discovered from further affidavits that Mr. de Coster and Mr. Reyburn, as testified by Mr. Williams, made affidavits of a highly important character in this case which involved certain directions given by Mr. Vardaman to Mr. Rey-

burn and to Mr. de Coster. To my mind, the evidence will clearly show that Mr. Reyburn and Mr. de Coster had very good reason, from the standpoint of themselves alone, discrediting considerations of truthfulness, to go on the witness stand and deny the truth of what they had respectively sworn to four or more years previously.

Mr. MILLIKIN. Mr. President, will the Senator develop those matters of interest which caused them to change their testimony?

Mr. DONNELL. I shall endeavor to bring out as fully as I can the entire situation, and I am sure that the Senator from Colorado will provide the facts if I overlook them.

Mr. MILLIKIN. Is the Senator affirming now that there is something in this record which shows an improper interest in those witnesses which would cause them to change their testimony?

Mr. DONNELL. I undertake to say, Mr. President, that the evidence will clearly indicate that it was to the personal interest of those men, from the standpoint of their reputations, if for no other, to deny that they participated in corruptly tampering with an inventory, and for Mr. de Coster to deny that he participated in the use of an estimated inventory, in order to show not a substantial loss, but, on the contrary, the real condition of the company as it existed.

Mr. MILLIKIN. De Coster and Reyburn were both before the Senator as witnesses.

Mr. DONNELL. They were.

Mr. MILLIKIN. Does the Senator contend that during his examination he developed the kind of interest to which he has referred?

Mr. DONNELL. I believe, Mr. President, that the facts speak very clearly for themselves, and show that the situation to which I have referred existed. Does the Senator desire further information?

Mr. MILLIKIN. No; I am awaiting the demonstration.

Mr. DONNELL. I shall make the demonstration in due time.

Mr. President, as indicating the general attitude of Commodore Vardaman toward the persons who were dealing with this company over a period of years, and who ultimately lost a very large amount of money by reason of the fact that they dealt with the company during that time, or at least a part thereof, I invite the attention of the Senate to the fact that Mr. Vardaman, as president of the company for a considerable portion of the period, and as treasurer of the company during an earlier portion of the period, was operating the company largely with money of creditors while the company was skirting insolvency, and even after the company had been demonstrated by Ernst & Ernst, the company's auditors, to have become insolvent.

Mr. President, yesterday the question was raised as to whether any creditor had been fooled by anything that had been done. I do not know what evidence is necessary to show that anybody was fooled, but when creditors of a company

lose two-thirds of an amount in excess of \$116,000, it appears to me that they have been injured by the dealings which they had with the company.

Mr. MILLIKIN. Mr. President, will the Senator also develop the fact that the creditors were thoroughly aware of the financial condition of the company?

Mr. DONNELL. If the Senator can tell me to what particular portion of the testimony he refers, I shall be glad to quote it.

Mr. MILLIKIN. As I recall the testimony, Commodore Vardaman made the statement, which the Senator did not challenge in any way, that the creditors were thoroughly aware of the financial condition of the company. I believe there was some testimony to the effect that one creditor had checkers in the company. Is that not correct?

Mr. DONNELL. I do not recall.

Mr. MILLIKIN. Will the Senator also develop that the witness Bittner received property from creditors when he, Bittner, had those so-called affidavits in his pocket, which showed that there had been a padding of the inventory, and all sorts of other irregularities?

Mr. DONNELL. The Senator from Missouri will show that, Mr. President, and he will also show that the president of the company, at the time of the transaction which was conducted by Mr. Bittner, was Commodore Vardaman. As shown yesterday, Mr. Vardaman was thoroughly acquainted with the condition of the company during this entire period of time. The Senator from Missouri will also show, Mr. President, that a resolution was adopted by the board of directors itself, at a time prior to the bankruptcy, directing in substance the officers of the company to continue to operate the business, and that, in the opinion of the board, of which Mr. Vardaman was a member, no injurious effects would be experienced by any creditor through the continued operation of the company.

The Senator from Missouri will further show that Mr. Bittner is not the man whose conduct is under consideration of the Senate except in so far as it may refer to his credibility as a witness. We are considering whether or not Commodore Vardaman, not Mr. Bittner, is qualified to serve on the Board of Governors of the Federal Reserve System of the United States.

Mr. MILLIKIN. Mr. President, did not the Senator from Missouri develop yesterday the fact that Commodore Vardaman himself asked for an examination of the affairs of the company by Ernst & Ernst, a national auditing concern of high repute?

Mr. DONNELL. The Senator from Missouri developed yesterday that Commodore Vardaman made such request after Ernst & Ernst had brought to his attention and that of the comptroller of the company the fact that there had been tampering with the inventory of the company.

Mr. MILLIKIN. Mr. President, does the Senator make out of that situation a suspicious circumstance?

Mr. DONNELL. The Senator from Missouri makes this circumstance: It

was not until after tampering had been disclosed by Ernst & Ernst that Mr. Vardaman raised his voice in connection with it. The Senator will further show not only an interest on the part of Mr. Vardaman, but circumstances indicating at least to my mind, that the Senate may logically draw clearly the inference that Mr. Vardaman did know something, and had a very intimate knowledge, if I may say so, of the tampering with the inventory.

Mr. MILLIKIN. Will the Senator eliminate the story of Bittner and the so-called affidavits which have been discredited, and, after such elimination, point to one circumstance which indicates that Commodore Vardaman knew anything about those tamperings prior to the time which the Senator has mentioned?

Mr. DONNELL. Mr. President, the Senator from Missouri will not eliminate any portion of this testimony. It all has a direct bearing upon the case. The Senator from Missouri will show the fact to be that Commodore Vardaman, according to the testimony of Mr. Williams, desired that the affidavits which had been made in the office of Fordyce, White, Mayne, Williams, and Hartman, be destroyed, and that the commodore himself applied the match to the affidavits for their destruction.

Mr. MILLIKIN. Was that after or before the time when Commodore Vardaman demanded that a survey be made of the affairs of the company?

Mr. DONNELL. It was at the time of a settlement of a claim which had been brought by Mr. Bittner against Commodore Vardaman for alleged misrepresentation in the sale of certain stock of the Vardaman Shoe Co. to Mr. Bittner by Mr. Vardaman on the 16th day of January 1942—less than 30 days before the company went into bankruptcy.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. Then, the last suggestion about this business deal, to which the Senator has been adverting, refers to a period after the time when Commodore Vardaman ordered a complete inventory. Is that correct?

Mr. DONNELL. The transaction, Mr. President, by which the sale of stock occurred was on the 16th day of January, 1942.

Mr. MILLIKIN. Was not the request of Commodore Vardaman that there be a full examination of the company by Ernst & Ernst made before the end of January?

Mr. DONNELL. I think so. I do not recall the exact date. I shall be glad, in the course of the argument, to examine the minute. I cannot remember all the dates exactly, but I have the minutes here, and I shall be glad to answer fully, as rapidly as I can find the particular reference to the point to which the Senator alludes.

Mr. MILLIKIN. I suggest, then, that tentatively, at least, the Senator should withdraw the implication that the settlement showed a guilty knowledge of padding which as a matter of fact had already been brought to Commodore

Vardaman's attention and which he had ordered cleared up by an audit.

Mr. DONNELL. I undertake to say that the settlement to which reference was made did not occur until March 1942.

Mr. MILLIKIN. Then, that was 2 months after Commodore Vardaman had ordered a full survey of the business, after having been informed of the tampering.

Mr. DONNELL. Something to that effect, Mr. President. There will be a check on the exact dates from the minutes and from the testimony, which I shall be very glad to make.

The point I make, Mr. President, is that the Senator has asked if I would eliminate these affidavits from consideration in this case, and would then undertake to say whether or not there is any evidence of any knowledge by Commodore Vardaman in advance of the tampering with the inventory.

Mr. President, I will not eliminate one sentence from this testimony, and I undertake to say that the fact that Commodore Vardaman, as testified to by Mr. Williams, desired the affidavits destroyed, and applied a match to them in the shower bathroom of the law firm to which I have referred, at Broadway and Olive Streets, St. Louis, Mo., entitles the Senate to draw the inference that for some reason Mr. Vardaman desired the contents of those affidavits destroyed.

I wish to say, in fairness to Commodore Vardaman, that I think it is true that possibly he may have desired to have them destroyed even if the affidavits were untrue. I wish to say further that the testimony as to his conduct, the testimony as to the fact that Mr. Bittner had made a claim against him arising out of fraud, as he claims, in the sale of certain stock by Mr. Vardaman, who was acquainted with the conditions of the company, and sold Mr. Bittner the stock on January 16, less than 30 days before the bankruptcy—these and other circumstances, to my mind, justify the Senate in drawing the inference that Mr. Vardaman had very clear knowledge of why it was the inventory had been tampered with. I undertake to say further that the evidence will demonstrate clearly the reason why it was to the interest of Commodore Vardaman that the inventory should show greater assets of the company than in fact existed.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. I desire very respectfully to suggest to the Senator that he has more or less completely characterized the weakness of his case in that he will not eliminate from it the affidavits and statements which those who made them have sworn were false.

Mr. DONNELL. Mr. President, when this interrogation began I was about to speak with respect to the conduct of Commodore Vardaman in the operation of this company on the money of creditors of the company when it was near to and even after it had entered into an insolvent condition.

I call attention to the fact that Mr. Gentry, the trustee in bankruptcy of the

company, testified before the committee, referring, by the way, to a conference which took place on the afternoon of the day on which the bankruptcy petition was filed in the Federal court in St. Louis. The conference occurred in Mr. Gentry's office. I read:

Senator DONNELL. What if any conversation transpired in which Commodore Vardaman participated to the best of your recollection?

Mr. GENTRY. Well, there were a good many things talked over. I could not recall all that was said. One subject was that Mr. Bittner—Mr. Frank O. Bittner was mentioned in connection with the shoe company. He was executive vice president, and he remarked—

That is to say, I judge, that Mr. Vardaman remarked—

He remarked that Bittner was of German descent, and that he liked to talk.

In that connection, Mr. President, I recall to the Senate the fact that in a statement prepared by Commodore Vardaman and submitted to the committee, when he referred to the Tower Grove Bank & Trust Co., he said that the situation which he described made impossible any continued happy association. The commodore refers there to the fact that—

The bank was what is known as a German bank being located in South St. Louis, where a large percentage of the population is German, and most of the bank's customers, as well as most of the directors, were of pronounced German descent and sympathy.

In fairness to the commodore, I should again call attention to the fact, as I did yesterday, that he follows this in his testimony by an interpolation of the fact that he was not intending in any sense to imply any lack of loyalty on the part of those connected with the bank, that these incidents took place prior to our participation in the war.

I pointed out to the Senate the fact that in his description of the bank the commodore emphasized the German sympathy of the bank and that the population of the locality was largely German. So when he engaged in this conversation with Mr. Gentry he again referred to the "German descent." He referred to Mr. Bittner, who is the executive vice president, and he remarked that Bittner was of German descent and that he liked to talk.

Mr. President, I mention this German angle because I think the fact that the commodore in his statement from which I have read, the mimeographed statement, refers to the German matter tends very strongly to corroborate the testimony of Mr. Gentry as to what transpired in the conversation between him and Mr. Vardaman on the day the bankruptcy ensued.

After the sentence which I have read, Mr. Gentry proceeded:

He did talk pretty loud and very well. I remember this remark being made by Mr. Bittner.

Senator DONNELL. Do you mean Mr. Vardaman?

Mr. GENTRY. Yes, Commodore Vardaman, as he is now. I am not sure whether it was before or after Mr. Price had been called in.

I interpolate, Mr. President, that Mr. Price was an auditor who was called in

by the Federal court to audit the affairs of the company, and who incidentally testified in this case.

Then Mr. Gentry proceeded with this statement, to which I am leading up:

Someone asked the question of the solvency or insolvency of the Vardaman Shoe Co. and referring to it Mr. Vardaman said, "The company has been broke." He mentioned the length of time and he mentioned 2 or 3 years. I cannot remember which period he mentioned.

Senator MCFARLAND. Did he say that?

Mr. GENTRY. Commodore Vardaman.

That appears on page 113. On page 118 Senator MCFARLAND addressed a question to Mr. Gentry, as follows:

You say Commodore Vardaman said the company had been broke?

Mr. GENTRY. Yes.

Senator MCFARLAND. We use the terms in various ways. Lots of times you can say "I am broke." You might have assets but no cash.

Mr. GENTRY. When I say "I am broke," I am broke.

Senator MCFARLAND. Did you ever find yourself in a position where you had a lot of assets but could not convert them into cash?

Mr. GENTRY. Of course; yes.

Senator MCFARLAND. And if he was using the word in that way it would be just along the lines of his testimony this morning?

Mr. GENTRY. I did not so understand it.

Senator MCFARLAND. He said they had no cash; they were operating without money to operate on.

Mr. GENTRY. I think they were broke every way, from what I found out.

Senator MCFARLAND. I understand your conclusion, but if he was using it in terms that he—no operating cash, did not have any money—it would be right in line with his testimony.

Mr. GENTRY. If he was using it in that sense he did not so explain it to me. I got the impression it was an insolvent company, according to his judgment.

Senator MCFARLAND. For how long.

Mr. GENTRY. Two or three years.

Mr. President, in the minutes of the shoe company, of January 31, 1941, Mr. Vardaman is reported as follows, at the bottom of page 89 and top of page 90:

Mr. Vardaman stated that he may be able to delay payments on accounts payable for a sufficient period to continue operations during the present season but that it was possible that the creditors may insist on immediate payment and in that event in order to continue sufficient money must be available as he has informed—

And perhaps this is what the Senator from Colorado had in mind—

As he has informed the creditors of conditions from time to time and he expects to continue to be fair with them.

This was on January 31, 1941.

Mr. President, on page 913 of the hearings appears the following—this is the questioning of Mr. Vardaman at this point by myself—

Senator DONNELL. Now, do you know of any time during the period that you were with the Collins-Morris Shoe Co. or the Vardaman Shoe Co.—it was the same company?

Commodore VARDAMAN. That is right.

Senator DONNELL. Do you know of any time at which the company was solvent by more than \$50,000?

Commodore VARDAMAN. No; I don't believe I do.

Senator DONNELL. Do you know of any time during the period in which you were asso-

ciated with the company in which it was solvent by more than \$35,000?

Commodore VARDAMAN. Senator, I would not estimate—I don't care to make those estimates at this late date.

Then the Senator from Arizona [Mr. McFARLAND] questioned Mr. Vardaman along the line that talking about solvency in a certain amount is more or less of an opinion.

At page 908 of the hearings the following occurred:

Senator DONNELL. Now, Commodore, this company had been in a very precarious condition for a long time, hadn't it?

Commodore VARDAMAN. Apparently ever since it was organized, yes; and certainly ever since the failure of the Hamilton Brown Shoe Co.

Senator DONNELL. That took place when? Commodore VARDAMAN. What would that be—April 1939? Somewhere along in there.

Senator DONNELL. I just don't know.

Commodore VARDAMAN. About in there; 1939.

Senator DONNELL. From your statement which you read, you said in the spring of 1939.

Commodore VARDAMAN. That is right; the spring of 1939.

Senator DONNELL. So that from that time the Collins-Morris Shoe Co. had been in a very precarious condition?

Commodore VARDAMAN. That is right.

Senator DONNELL. Did it ever materially improve between then—

Mr. President, that was the spring of 1939—

Did it ever materially improve between then and the time it went into bankruptcy? Commodore VARDAMAN. Materially?

Senator DONNELL. Yes.

Commodore VARDAMAN. I would say "No."

Senator DONNELL. So that you knew all during that period, did you not, Commodore Vardaman, that the company was in precarious condition, substantially as precarious as when you started in with it?

Commodore VARDAMAN. Everybody knew that. The creditors, the board, the auditors, and everybody concerned. It was rather public knowledge that it was a salvage work-out proposition.

At page 14 of the hearings, Mr. Vardaman testified:

In December 1941 or January 1942 the auditors for the company advised me that the audit as of November 30, 1941, would show that the company was insolvent, and, further, that there had been some tampering with the inventory records after they had been prepared by the auditors, in an apparent attempt to show larger amounts of inventory than actually existed.

Mr. President, it will be observed that in this testimony, which is a copy taken from the mimeographed statement which had been prepared in advance, the Commodore states that in December 1941 or January 1942, the auditors for the company, that is Ernst & Ernst, advised him that the audit as of November 30, 1941, would show that the company was insolvent. I call attention to the fact that when the Commodore prepared his statement for the committee, and when he testified initially before the committee, he was not certain which month it was, December 1941, or January 1942, when the auditors advised him that the audit as of November 30, 1941, would show that the company was insolvent.

Later in his testimony—as I remember it, when he was recalled some days after his initial testimony; perhaps, however, it may have been in his initial testimony also—he stated in substance that he had been refreshed in his memory by the testimony which had been adduced, and that the information that the auditors passed to him was given to him in January 1942.

Mr. President, take the statement as he has finally made it. Even if Mr. Vardaman was not told until the end of January concerning the insolvency, yet it is to be noted that, according to exhibit 5 in this case, 21 creditors sold merchandise to the company in February 1942, which was after the latest date which Mr. Vardaman declares was that on which he learned from the auditors of the insolvency of the company.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. DONNELL. In a moment, if I may proceed, please.

I also call attention to the fact that among the 21 creditors who sold merchandise to the company in February, after Mr. Vardaman, by his own finally revised testimony had obtained the information from the auditors, the American Hide & Leather Co. shipped on February 10 and 11, 1942, two certain shipments aggregating \$3,603.24, the latest of which shipments was made only 2 days before the bankruptcy ensued.

I call attention, Mr. President, to the fact that large numbers of items set forth in a list aggregating \$116,925.21 of trade creditors' claims in excess of \$1,000, covering purchases dated subsequent to February 20, 1941, bear dates in January and February 1942.

I now yield to the Senator from Colorado.

Mr. MILLIKIN. Does not the Senator recall that Mr. Bittner testified at length and displayed some shock at the fact that goods were ordered from creditors when, according to his, Bittner's information, the company was insolvent, and does not the Senator remember the colloquy which occurred between Mr. Bittner and myself as to the moral responsibility of Bittner in receiving goods when he was active in the company, and while believing it to be insolvent?

Mr. DONNELL. I recall that very well, Mr. President.

Mr. MILLIKIN. When within his own knowledge the company was insolvent?

Mr. DONNELL. I recall that colloquy between the distinguished Senator and Mr. Bittner very well indeed.

In that connection I distinctly recall that at page 166 of the minutes of the company of Friday January 30, 1942, next to the last day of January, when Mr. Vardaman reported on his visit to the office of Ernst & Ernst, and the padding of the inventory, appears the following language:

Mr. Vardaman further stated to the board that in his opinion the continued operation of the company's business pending a more complete investigation and the completion of the audit would not affect the rights of any creditors, and that he recommended that no further action be taken until said audit is completed and analyzed.

I recall further, Mr. President, that there was a resolution adopted in response to an inquiry by Mr. Cook, appearing at page 169 of the minutes of the meeting of January 30, the inquiry reading:

Will the rights of stockholders and creditors be jeopardized until the completion of the investigation?

After a full discussion of the subject, the following resolution was unanimously adopted by the directors present:

Be it resolved, That on the basis of the report made by the president—

That is, Mr. Vardaman—

and the company's attorney, it is the opinion of this board that the rights of creditors and stockholders will not be prejudiced by a continuation of the business until a complete and thorough investigation of the matter has been made.

There are further resolutions, and then this one:

It is further resolved, that if the president or executive vice president, prior to said adjourned date—

That is to say, February 12, 1942—

discovers any evidence from such investigation which in his judgment would jeopardize the interest of creditors or stockholders, he shall immediately call a meeting of the directors.

I call attention to the fact that between January 30, the date of this meeting, and February 12, the day on which it was resolved to go into bankruptcy, no such special meeting of the board of directors is recited in the minutes of the company to have occurred.

So, Mr. President, I submit that from the earliest time at which Mr. Vardaman was associated with this company it is clear that he knew the precarious financial condition of the company; that the company, relying upon his experience and his ability, to which reference had been made when he was engaged, continued to receive credit extended by numerous creditors; and the evidence conclusively shows that after the utmost limit of time to which Mr. Vardaman testified his failure to know about the tampering and insolvency had extended, and after Mr. Vardaman, by his own admissions, knew of what the auditors had passed on to him—the testimony being that they told him, and Mr. Vardaman's statement being to the effect that they had told him that the audit of November 30, 1941, showed insolvency—after that date, when Mr. Vardaman himself admits that he knew of the insolvency of the company, 21 creditors were permitted to sell merchandise to the company, one of those creditors selling it within 2 days before the bankruptcy ensued. I think, Mr. President, that the facts to which I have referred should be considered by the Senate in determining something as to the attitude of Mr. Vardaman with respect to the persons with whom he deals.

I come now to the matter of the tampering with the inventory. This was the inventory of November 30, 1941. It will be recalled that Mr. Vardaman does not

contend that there was no such tampering. His prepared statement, and I believe his oral testimony, were exactly as I shall relate. Certainly the mimeographed statement reads as follows:

In December 1941 or January 1942 the auditors for the company advised me that the audit as of November 30, 1941, would show that the company was insolvent, and further, that there had been some tampering with the inventory records after they had been prepared by the auditors, in an apparent attempt to show larger amounts of inventory than actually existed.

Then he proceeded in his statement:

These attempts were crude, and patently made by someone not familiar with auditing methods, and were easily observable under the most casual examination.

So, Mr. President, we find, first, that it is admitted by Mr. Vardaman that there was tampering with the inventory, or, at any rate, that the auditors, Ernst & Ernst, informed him that there had been tampering with the inventory records which were applicable to the audit as of November 30, 1941. It is also admitted by him that this tampering was an apparent attempt—or that the auditors so indicated—to show larger amounts of inventory than actually existed.

Who was responsible for this tampering with the inventory? Frequently it is the experience of lawyers—and I think of laymen—that persons who are charged with offenses of one kind or another do not come forward and admit their complicity. I believe, Mr. President, that when Mr. de Coster and Mr. Reyburn denied before the Senate committee the statements they had made as to their complicity, which statements were made in January 1942 in affidavit form, they were doubtless acting under the urge of what they considered to be self-preservation.

To whose interest was it to show that there was more in the inventory of the company than actually existed? Remember, Mr. President, that under the contract, as Mr. Vardaman had caused it to be rewritten after he joined the company, there was provision for payment to him of a 5-percent bonus upon the earnings of the company. Obviously a company has no earnings if the net result during the period in question is not an earning, but a loss. Obviously, therefore, in order to show the existence of an earning on which a bonus may be paid, it is to the interest of an individual to show that the assets of the company have not been depleted, but that they are larger than they would be if such depletion had occurred.

There was another reason why it was to the interest of Commodore Vardaman to see that the inventory indicated a higher figure than existed. It was to his interest to keep the business going as long as possible so that he could draw his salary, which was to continue at the rate of \$500 a month after he should have left in order to attend to his duties with the Navy.

But, Mr. President, there is a further reason, and this reason arises from a transaction which occurred on January 16, 1942, between Mr. Vardaman and Mr. Bittner, who has been mentioned so frequently. Mr. Bittner testified that

on the 16th day of January 1942, he had bought from Commodore Vardaman 9,345 shares of stock of the company, and that he had been influenced in the purchase of that stock by a financial statement which I hold in my hand, Bittner's exhibit No. 2, which shows the company to be solvent to the extent of \$29,054.67.

Mr. Bittner testified that Commodore Vardaman gave him this financial statement, Bittner's exhibit No. 2. Mr. Bittner purchased this stock. As I recall, he paid \$4,000 in cash and gave his note for \$5,345, which I believe was used by Mr. Vardaman to take up paper of his own to that amount in a bank.

Mr. MILLIKIN. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. Russell in the chair). Does the Senator from Missouri yield to the Senator from Colorado?

Mr. DONNELL. I yield.

Mr. MILLIKIN. Was the financial statement to which the Senator refers attested to by anyone, or certified by anyone as being true?

Mr. DONNELL. It was not.

Mr. MILLIKIN. What did Commodore Vardaman say as to that, if I may ask the Senator?

Mr. DONNELL. Commodore Vardaman denied that he had shown this to Mr. Bittner, and I am inclined to think he denied that he had ever seen it. Mr. Bittner testified, however, that Commodore Vardaman gave him the statement and that he was influenced in the purchase of the stock by it.

Mr. President, remember that the transaction took place on the 16th day of January 1942, the day upon which occurred the directors' meeting at the Missouri Athletic Club at which Mr. Vardaman told of having gone to the office of Ernst & Ernst, the company's auditors. My recollection is that Mr. Vardaman testified that the information which he had thus far received from Ernst & Ernst as to the alleged plugging or padding of the inventory referred only to certain minor amounts involving approximately \$6,000 or \$7,000. Indeed, in the minutes of the company of January 16, Mr. Vardaman is recorded as stating that on December 31, 1941, he was called to the office of Ernst & Ernst, the company's auditors, and that they informed him that they did not believe that the inventory in the Bottoming Room was accurate; that it appeared to them that the quantities had been doubled, and that they were referring those sheets back to the company for rechecking. Mr. Vardaman then reported that he was led to believe that the adjustments in those departments would be somewhere between \$5,000 and \$7,000.

However, Mr. President, the testimony is that it was learned, the exact date I am not able to state, that as to the items which the auditors had checked—only those items, mind you—the actual discrepancy in the inventory was between \$50,000 and \$60,000. Mr. Bittner, as I have said, testified that he has purchased from Mr. Vardaman for \$9,345, on January 16, 1945, 9,345 shares of stock of the Vardaman Shoe Co. Then the testimony is that Mr. Bittner shortly

thereafter made claim on Mr. Vardaman that he, Bittner, had been defrauded in the transaction; and Mr. Bittner engaged a lawyer, Mr. Frank Williams, of the law firm to which I have referred, to represent his interest. The testimony shows, at page 818, that Mr. Williams testified that he showed to Mr. Vardaman the affidavits to which I shall refer in a moment.

At this time I desire to present photostatic copies of the affidavits to which reference has been made. According to the testimony, two of them were drawn in the office of Fordyce, White, Mayne, Williams & Hartmann. However, before presenting the affidavits, I desire to refer to photostatic copies of certain other affidavits which were submitted to the subcommittee. One of them is exhibit B. All of it, except certain preliminary parts, was admitted by Mr. de Coster to have been written in his own handwriting. I read this affidavit to the Senate:

JANUARY 27, 1942.

I, Paul de Coster, of lawful age, being duly sworn, on my oath depose and say:

That I am the comptroller of the Vardaman Shoe Co., and that on December 31, 1941, at the office of Ernst & Ernst, the auditors of the company, sundry discrepancies and errors were brought to the attention of J. K. Vardaman, Jr., the company's president, and discussed, such errors and discrepancies having been discovered in the inventory.

I further state that prior to and subsequent to the above-mentioned meeting at the office of Ernst & Ernst, ways and means were discussed between J. K. Vardaman, Jr., and myself, in his office in the Naval Intelligence Department, to substantiate the inventory.

On this date Mr. Vardaman was well aware of the financial condition of the company and the exact status of the inventory.

PAUL DE COSTER.

Subscribed and sworn to before me this 27th day of January, 1942.

JOHN C. KAPPEL,
Notary Public.

My term expires April 26, 1944.

I also present to the Senate—and it was presented to the subcommittee—exhibit C, the affidavit of Sam Reyburn, who, as the evidence shows, was at the Owensville plant, of which he was the superintendent. The affidavit reads as follows:

JANUARY 27, 1942.

I, Sam Reyburn, of lawful age, being duly sworn, on my oath depose and state:

That I am the superintendent in charge of the factory of the Vardaman Shoe Co. at Owensville, Mo., and that at the request of James K. Vardaman, Jr., the company's president, I supervised the taking of an inventory of all personal property of the company at said plant on November 29 and 30, 1941. That I sent said inventory sheets to the office at St. Louis.

I talked to Mr. Vardaman on or about December 5, 1941, at the office of the company at St. Louis, Mo., during which conversation he told me that it was necessary that the company's operations for the year 1941 show a profit. I further state that Mr. Vardaman knew the financial condition of the company on said date and was familiar with the figures as shown by the inventory prepared on November 29 and 30, 1941.

SAM REYBURN.

Subscribed and sworn to before me this 27th day of January, 1942.

JOHN C. KAPPEL,
Notary Public.

My term expires April 26, 1944.

Then, Mr. President, I also present—and it was likewise presented to the subcommittee—exhibit D, which was admitted by Mr. de Coster to have been written in his own handwriting, although, as I recall, he testified that it was done at the suggestion of Mr. Bittner. It reads as follows:

JANUARY 29, 1942.

I, Paul de Coster, under oath state that the following statement is my opinion, based upon a phone conversation with J. K. Vardaman, Jr., held on the morning of January 27, 1942, in the course of which conversation he was informed that the inventory situation looked black. When asked what had been the reaction of Mr. Sam Reyburn, the factory superintendent, at a meeting which, at Mr. Vardaman's request, I had held with him the previous evening, I informed Mr. Vardaman that it was Sam Reyburn's intention to produce the copies of the original inventory and hand in his resignation. Mr. Vardaman then said, "O. K., let him." In my opinion, therefore, it was Mr. Vardaman's desire to let Mr. Reyburn assume responsibility and take the blame for the inventory. The above is written in an endeavor to substantiate my position in the matter.

PAUL DE COSTER.

Subscribed and sworn to before me this 29th of January 1942.

JOHN C. KAPPEL,
Notary Public.

My term expires April 26, 1944.

Mr. President, I now present as exhibit F a photostatic copy of a certain affidavit. Mr. Williams clearly confirmed it as being a copy of the original. He examined it at my office, as well as another affidavit, exhibit F. I now read the affidavit of Mr. Reyburn:

STATE OF MISSOURI,

City of St. Louis, ss:

I, Samuel Reyburn, of lawful age, being duly sworn, depose and state:

That I am the superintendent in charge of the factory of the Vardaman Shoe Co. at Owensville, Mo., and, as such, in complete charge of said factory, subject, of course, to the supervision of the president, and have acted in such capacity from November 1937 to date.

On or about November 29 and 30, 1941, I was directed by Mr. J. K. Vardaman, Jr., the president of the Vardaman Shoe Co., to make an inventory of all raw material in process of manufacture and finished products located in and around the factory at Owensville, Mo. Acting under these instructions, and following the procedure which has been followed ever since I became connected with the company, and which is the usual method of making such inventories, I personally supervised the making of a correct and accurate inventory of said property. This inventory was made with the assistance of all foremen of the departments and by representatives of the auditing firm of Ernst & Ernst. When the inventory was completed in the several departments, it was delivered to my desk by the auditors and I checked it with the auditors, after which, in the office at Owensville, the material was priced and extensions made. After its completion at the factory it was, of course, submitted to the auditors and they checked it and approved it.

On or about December 5, 1941, I came to St. Louis, went to the office of the Vardaman Shoe Co., and brought with me the inventory which was so prepared. Upon arriving at the office, I delivered the inventory to Mr. Paul de Costa, the comptroller of the company, stationed at St. Louis.

While discussing this inventory with Mr. de Costa, Mr. Vardaman, the president of the company, joined us in the sample room.

After a brief conference Mr. Vardaman asked Mr. de Costa what the final figure in the inventory was and Mr. de Costa told him. Mr. Vardaman then turned to both of us and stated that this inventory would have to be changed so that the company would show a profit of \$30,000. Upon making this statement he left our presence and Mr. de Costa and I understood that these orders had to be obeyed. Acting under the instructions given to me by Mr. Vardaman, I returned after this conference to the factory at Owensville and made between 20 and 30 changes in the inventory by increasing the number of items appearing on the original inventory and, of course, making the extensions and changing the value accordingly. This work was done by me alone in my office at Owensville and the following week I returned to St. Louis and delivered this inventory with the changes described above to Mr. de Costa, the comptroller of the company.

Further, affiant sayeth not.

(Signed) SAM REYBURN.

Subscribed and sworn to before me this 30th day of January 1942.

(Signed) MARTHA HARRIS,
Notary Public.

My commission expires May 12, 1943.

There follows the words "seal in handwriting."

Mr. MILLIKIN. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. KNOWLAND in the chair). Does the Senator from Missouri yield to the Senator from Colorado?

Mr. DONNELL. I yield.

Mr. MILLIKIN. I should like to ask the Senator from Missouri what Mr. Reyburn had to say about that matter.

Mr. DONNELL. Mr. President, Mr. Reyburn said in substance that he was requested by Mr. Bittner, who was making the claim against Mr. Vardaman of alleged fraud in the sale of the stock, to accompany Mr. Bittner to the office of Mr. Frank Williams, attorney for Mr. Bittner.

Mr. MILLIKIN. Mr. President, I did not intend to burden the Senator with the entire recital of the situation. I should have made my question a little sharper. Did Mr. Reyburn say that the statement was true or false?

Mr. DONNELL. Mr. Reyburn stated that the portion of the affidavit reading: "Mr. Vardaman turned to both of us and stated that this inventory would have to be changed so that the company would show a profit of \$30,000," was not true.

Mr. MILLIKIN. What did Mr. de Costa say about it?

Mr. DONNELL. Mr. de Costa likewise denied the truthfulness of the statement when he testified before the committee.

Mr. MILLIKIN. What did Commodore Vardaman say about it?

Mr. DONNELL. Commodore Vardaman likewise denied the truthfulness of the statement.

Mr. MILLIKIN. Who, during the course of the entire testimony, said that it was true?

Mr. DONNELL. Mr. President, no witness testified that the statement was true. But there is the further evidence that after the presentation to Mr. Vardaman of this and the other affidavits to which I shall come in a moment, charging fraud against Mr. Vardaman, he made a settlement with

Mr. Bittner in the sum of \$5,345 in the form of a promissory note executed by Mr. and Mrs. Vardaman, and secured by a deed of trust upon the farm of Mr. and Mrs. Vardaman, or one of them, in St. Louis County, Mo.

There is the further testimony that when the transaction was concluded by which the \$5,345 settlement was made, Commodore Vardaman requested that the affidavits, exhibits E and F, be destroyed.

There is the further testimony—it is denied by Commodore Vardaman just as was the request to which I have referred—by Mr. Williams that he and Mr. Vardaman, pursuant to the request of Commodore Vardaman, went to the shower room of the law firm and there destroyed those affidavits, Mr. Vardaman himself applying the match by which the affidavits were destroyed.

Mr. MILLIKIN. What did Commodore Vardaman testify with reference to applying the match?

Mr. DONNELL. He denied in toto that he had gone to the shower room; he denied that he had applied the match; he denied that the destruction took place; and he denied that he had requested that the destruction take place.

Mr. MILLIKIN. Merely for the sake of discussion, let us assume that Commodore Vardaman applied the match.

Mr. DONNELL. Yes.

Mr. MILLIKIN. Let us further assume that he wanted those affidavits to be destroyed. In view of the false character which has been attributed to them by the evidence, why should not Commodore Vardaman want the affidavits destroyed? Would any sensible man wish fraudulent, perjured affidavits concerning himself to be allowed to float around? I remind the Senator that I am accepting his thesis only for the sake of argument.

Mr. DONNELL. I understand the Senator's presentation.

Mr. President, to my mind the Senate of the United States, as I have previously indicated today, has the right to draw its own inference from the request which Mr. Williams testified was made by Mr. Vardaman and from the incident which Mr. Williams testified occurred with reference to Mr. Vardaman in applying the match to the affidavits. I can well understand the position asserted by the distinguished Senator from Colorado to the effect that an individual would desire untrue affidavits to be destroyed. But I can likewise understand how a person who had been guilty of tampering with an inventory, or of causing the act to be committed which brought about tampering with the inventory, might well desire to destroy an affidavit which truthfully set forth what had transpired. I also affirm, Mr. President, that the Senate is entitled to draw its own inference one way or the other as to what was the motive of Commodore Vardaman, and in so doing it is entitled to take into consideration such facts as I have already developed from the evidence which show a tendency on the part of the commodore to color his statements to his own advantage.

Mr. MILLIKIN. Mr. President, I would respectfully remind the Senate, and particularly the Senator from Missouri, that, under the Senator's own theory, there are only two witnesses who could have testified that Vardaman had anything to do with padding the inventory. I refer to De Coster and to Reyburn.

I remind the Senator further that when Bittner was asked whether he knew of his personal knowledge that Vardaman had fooled with those inventories, he said he did not, in the most unequivocal terms. I have the testimony, which I shall read if there is any question about it.

Only two witnesses, I remind the Senator, under his own program of procedure, under his own way of building up his case, were brought in to connect Vardaman with the padded inventory, De Coster and Reyburn. Does the Senator say, since the heart and core of his case has collapsed on his own testimony, that we need go further? Is the Senator going to tie Vardaman to the padded inventory with a philosophical discussion?

Mr. DONNELL. Mr. President, I am not tying Mr. Vardaman to the inventory with a philosophical discussion. I am calling to the attention of the Senate the fact that it was to the interest of Commodore Vardaman to have the inventory show more than was there.

I have brought to the attention of the Senate the fact that, according to the affidavit of Mr. de Coster back as early as March of 1941, Commodore Vardaman, in order to avoid the showing of a loss by the company, was using in a balance sheet an estimated inventory figure.

I have brought to the attention of the Senate the fact that Mr. Vardaman had been accused by Mr. Bittner of the perpetration of fraud and misrepresentation upon him, Mr. Bittner, on the 16th day of January, less than 30 days before the company went into bankruptcy, in the sale of \$9,345 worth of stock to Mr. Bittner.

I have brought out the fact that Mr. Vardaman had his own interest—the maintenance of a high inventory in order to show a profit on which he might obtain a bonus.

I have brought to the attention of the Senate the interest of Commodore Vardaman in seeing that the company should continue to operate as long as possible, because he was getting his salary, after January of 1942, of \$500 a month.

I have brought to the attention of the Senate that the commodore made a settlement with Mr. Bittner of the claim based on the very fraud and misrepresentation as to the inventory, based upon the proposition that the financial statement recites an inventory as of a certain date—I do not recall the date of the financial statement for the moment—and that Commodore Vardaman settled a claim, which was based upon these affidavits, for \$5,345 and a note secured by deed of trust on his farm.

I say, Mr. President, that I have brought to the attention of the Senate all these facts, plus the fact that Commodore Vardaman desired these affidavits destroyed, plus the fact that, according to Mr. Williams' testimony, Commodore Vardaman applied the match to the affidavits.

I have brought these facts to the attention of the Senate, and I respectfully submit that the Senate is entitled to draw its conclusion, its inference, from these facts, as to the conduct of Mr. Vardaman. It is entitled to draw its conclusions as to whether the affidavits, which are under oath, are true, or whether or not the statements made by De Coster and Reyburn before the committee in defense of their own good names are true.

I submit, Mr. President, that upon these facts the Senate must exercise its own independent judgment, and upon them it is authorized and justified in drawing the inference that the statements set forth in the affidavits are true, rather than to accept the repudiation of the affidavits by the two witnesses on the stand before the subcommittee.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. The Senator is not inferring that the Senate is not having an opportunity to consider those matters, is he?

Mr. DONNELL. Not at all.

Mr. MILLIKIN. I do not believe I am going outside our personal understandings. Before this case came up, I remind the Senator, it was agreed that the testimony of Bittner, De Coster, and Reyburn would be the heart of the case. Is that correct?

Mr. DONNELL. Mr. President, it is certainly true that to my mind, as was stated to the Senator, Mr. Bittner's testimony was of exceedingly great importance, and that he should be subpoenaed. That was stated to the Senator from Colorado. It was also stated that, following Mr. Bittner's testimony, the testimony of Mr. de Coster and Mr. Reyburn should be taken. I do not recall having used the language or hearing the language "the heart of the case." I do not recall that; but I think our meaning is substantially the same.

Mr. MILLIKIN. It was the theory, I remind the Senator from Missouri, under his view of the case, that Bittner would lay a foundation for the testimony of De Coster and Reyburn, who would directly connect Vardaman with the padded inventory. I suggest to the Senator that unless he is willing to vouch for De Coster and Reyburn, and since Bittner would not testify of his own knowledge, reckless as he was in much of his testimony, that Vardaman was directly connected with those paddings, there is nothing left but the question whether or not we should accept the truth of the original statements, repudiated under oath, by De Coster and Reyburn.

What is left, if I may make the suggestion, is a lot of inferences which could be used to buttress the truth of Reyburn and De Coster, if their testimony remained unchallenged, but it having been completely discredited, there is nothing to infer about.

Mr. LUCAS. Mr. President, will the Senator from Missouri yield?

Mr. DONNELL. If I may have an opportunity to reply briefly to the Senator from Colorado, then I shall yield.

Mr. President, it was suggested earlier in the debate, by the distinguished junior

Senator from Oregon [Mr. MORSE], that the mere fact that Mr. Reyburn and Mr. de Coster may have been shown to be, as I think they were, not telling the truth in their testimony before the subcommittee, does not make it obligatory upon the Senate to set aside and refuse to consider what all these men may have done and all that they may have said in the past.

Mr. President, the distinguished Senator from Colorado has asked, What remains after the discrediting of these men? I have attempted to state—and I shall not trespass on the time of the Senate to repeat it unless necessary—the chain of circumstances, beginning with the interest of Commodore Vardaman, beginning with his own mimeographed statement that there was tampering in an effort to show the building up of an inventory greater than existed; I have checked item by item various and sundry important circumstances which to my mind would justify the Senate in drawing the conclusion, regardless of the fact that De Coster and Reyburn and Vardaman himself denied that anyone of them had any participation, that there was participation by Vardaman, by De Coster and by Reyburn in tampering with the inventory.

I now yield to the Senator from Illinois.

Mr. LUCAS. Not having been a member of the committee, and not having followed the hearings very closely, I rise only to seek information.

The colloquy between the two Senators has dealt with a witness by the name of Williams, I understand. Is Williams a disinterested witness, or does he have an interest of some kind?

Mr. DONNELL. I know of no interest he has.

Mr. LUCAS. How did he happen to get into the case?

Mr. DONNELL. I shall explain it.

Mr. LUCAS. Has the Senator explained it heretofore?

Mr. DONNELL. No; I do not think I have. I think it is a pertinent question, and I shall be glad to explain.

The testimony of Mr. de Coster and of Mr. Reyburn had been, generally speaking, to the effect that they went to the office of Mr. Williams who was a member of the law firm to which I have referred, and were ushered into his presence. In the case of Mr. Reyburn, who executed the first affidavit, the one executed on January 30, 1942, Mr. Reyburn testified, in substance, that there was intimidation, that there was cajolery, that there was representation unless Mr. Bittner got back his money he could not send his boy to school, that there was an intimation that unless he, Reyburn, should sign this affidavit which was to be prepared he would lose his job at the plant, and that after a long period, an hour and a half or two hours, or possibly an hour or an hour and a half, I have forgotten, he, Reyburn, signed the affidavit which Mr. Williams had dictated.

The testimony of Mr. Reyburn was further to the effect that Mr. Williams was under a high degree of excitement. Indeed, a rather humorous incident was mentioned by Mr. Reyburn, namely, that Mr. Williams fell over his waste basket

in the process of the preparation of the affidavit, or during the conference with respect thereto. The whole inference from the testimony of Mr. Reyburn, I may say to the distinguished Senator from Illinois, and I think the members of the committee will agree with me, was that his execution of this affidavit of January 30 was induced and brought about by improper conduct, by cajolery, intimidation, and duress on the part of Mr. Williams and his client, Mr. Bittner.

Mr. RADCLIFFE. Mr. President—The PRESIDING OFFICER (Mr. KNOWLAND in the chair). Does the Senator from Missouri yield to the Senator from Maryland?

Mr. DONNELL. I yield.

Mr. RADCLIFFE. Did not his testimony also disclose that Mr. Williams was likewise the counsel for Mr. Reyburn and Mr. de Coster; that he represented all three?

Mr. DONNELL. Yes. I thank the Senator from Maryland. I had overlooked that. The testimony was that Mr. Williams was the counsel for Mr. Reyburn and for Mr. de Coster. My recollection is that the inference there was that he was permitting his own clients to sign affidavits contrary to their own interests. I will say to the Senator from Maryland that I think that was the inference which the committee had suggested to it.

Mr. President, I propose to read in a few minutes the affidavit drawn on the next day, which is exhibit E, signed by Mr. Paul de Coster. I shall read a photostatic copy of a conformed copy. The testimony is that he signed one, in which substantially the same point was made that Mr. Williams had been a participant in intimidation and duress, and that he violated the duty which an attorney owes to his client in that he permitted his client to sign an affidavit to be used in a way that would be injurious to the client, or at least susceptible of causing injury. It is quite a long story; but if the Senator from Illinois desires me to relate it I will do so.

Mr. LUCAS. Mr. President—

Mr. DONNELL. I have not quite finished. These matters were called to the attention of Mr. Williams, who, by the way, I had suggested to the committee be subpoenaed; in fact, I think I had requested that he be subpoenaed. Mr. Williams himself finally concluded to come to Washington, after wide publicity had been given to the testimony of Mr. Reyburn and Mr. de Coster reflecting on the good name of Mr. Williams.

I may add—and this goes slightly beyond an answer to the Senator's question, but I think he would like to have the information—that Mr. Williams is a member of the character committee of the Missouri bar, appointed by the supreme court some 2 or 3 years ago. His firm is one of the leading firms of St. Louis, and represents the Pennsylvania Railroad Co., the Southern Railway Co., I think the Baltimore & Ohio, the United States Steel Corp., and many other corporations I might mention that are shown by the testimony.

Mr. Williams came here, as I understand, because of the fact that his own good name was reflected upon, and he

felt it obligatory upon himself to give the committee the facts as to the case, and he gave them much more fully than I have thus far indicated.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. LUCAS. As I understand, his good name was reflected upon by the client who had employed him in connection with this case?

Mr. DONNELL. The point was that he thought his good name was affected or reflected upon by the testimony of these two men who, it was claimed, were his clients. I should like to say what I mean by "it was claimed." The testimony of Mr. Williams was that on January 31, the day after the execution of the affidavit by Mr. Reyburn, he then had the conference with Mr. de Coster. Mr. Williams was not quite sure when it was that the conversation had occurred between De Coster—he thought it was De Coster—and himself, in which De Coster requested that he represent Reyburn and De Coster. That is, the conversation occurred after the Reyburn affidavit, but whether it occurred before the execution of the De Coster affidavit or the conference with De Coster, Mr. Williams was not quite sure, but Mr. de Coster and Mr. Reyburn were fearful, so Mr. Williams understood, of their participation in the matter of tampering with the inventory, and they therefore desired that he represent them. He agreed, upon the request of Mr. de Coster that he would do so, provided, however, that if at any time such a situation should arise that his representation of the three individuals, Bittner, De Coster, and Reyburn, should prove inconsistent, he would have the right to terminate his representation of Messrs. de Coster and Reyburn, and that was stated in a letter which Mr. Williams sent to those three gentlemen.

If I may continue for a moment, the testimony of Mr. Williams was further to the effect that because of the fact that Mr. de Coster and Mr. Reyburn were fearful of their position arising out of the tampering with the inventories, he was asked by them for his advice as to whether they were subject to any criminal liability. He thereupon advised them that he was not a criminal lawyer and would refer them to Mr. Sigmund Bass, one of the very well-known criminal lawyers in St. Louis; that Mr. de Coster, Mr. Reyburn, Mr. Bittner, and Mr. Williams went to the residence in Vandeventer Place of Mr. Bass, and there a consultation was had with the latter as to the criminal liability, if any, of De Coster and Reyburn; that Mr. Bass, after considering the facts, advised them that there was no criminal liability. Mr. Williams testified that in his own opinion there was no criminal liability, and certainly, in part, his testimony was to the effect—I am not certain whether this was a complete statement of it on that point—but in part his testimony was to the effect that there was no criminal liability, because the false inventory was never incorporated into a financial statement which was presented to the creditors on which they relied.

I have given in substance what I now recall of the connection of Mr. Williams with the case.

Mr. LUCAS. Mr. President, will the Senator further yield?

Mr. DONNELL. Yes.

Mr. LUCAS. Did I correctly understand the Senator to say that he had concluded that two of these witnesses testified falsely before the Senate committee investigating the nomination of Mr. Vardaman?

Mr. DONNELL. I may answer the Senator by saying that, in my opinion, De Coster and Reyburn in their statements denying the truthfulness of these affidavits were not telling the truth, and in my opinion the Senate is fully justified in inferring that the facts set forth in the affidavits as to what they had received from Mr. Vardaman were accurate.

Mr. LUCAS. Of course, the Senator knows the rule of law that if a jury believes that a witness under oath has testified falsely to any material matter the jury has a right to disregard his entire testimony.

Mr. DONNELL. The jury does have that right.

Mr. LUCAS. That is practically the same position the Senate would be in today if every member of the committee agreed that these two important witnesses whom the Senator from Colorado and the Senator from Missouri have been discussing, testified falsely upon a material matter. In that event the Senate would be justified in disregarding their testimony altogether. Am I correct about that? That is a rule of law.

Mr. DONNELL. I would say, that under the rule of law, which prevails in the courts, as I understand, a jury is justified in disregarding the testimony in whole or in part. I am not entirely clear on this point because I have not refreshed my memory as to the legal proposition, but my judgment is that the jury is not obliged but may—it is merely permissive with the jury—disregard any part or all.

I may say for the information of the Senator that the same point which he mentioned was raised earlier today on the floor of the Senate by the Senator from Colorado, and that the Senator from Oregon, I think very properly, pointed out that, while it is true that we may be justified in considering that some portion of a witness' testimony is untrue, the Senate is not thereby precluded from accepting the truthfulness of any other statement of the witness.

Mr. LUCAS. Let me say in reply to the able Senator from Missouri that of course the Senate can do anything it wants to do under its rules. We can ignore all the testimony if we want to and make a decision either for confirmation or against confirmation. All I was attempting to do, for my own information, in order that I might vote intelligently upon this question, was to ascertain the reliability, from the standpoint of veracity, of these two principal witnesses who appeared before the committee. In trying law suits in my section of the country I have always found that if I could catch a couple of witnesses who were against me perjuring themselves, and counsel on the other side

would agree that they had testified falsely upon material and pertinent matters, it was not very difficult for me to win a verdict.

Mr. DONNELL. I may say to the distinguished Senator from Illinois, whose very courteous question I am glad he has asked, that to my mind even if these men are utterly unreliable in their testimony before the Senate committee, nevertheless the Senate has a perfect right to consider all the circumstances which I have recited. I shall not weary the Senator by going over them. The Senate may consider all the circumstances with respect to the interest of Commodore Vardaman, the destruction of the affidavits, and so forth, and the Senate may conclude that even if those witnesses could not be believed when they testified before the subcommittee, nevertheless the conduct of Commodore Vardaman with respect to the affidavits themselves may amount to an admission of the truthfulness of the affidavits.

As I see it, we are not trying Reyburn or De Coster in the Senate. We are interested, of course, in their veracity, their reliability, and their credibility, if they have credibility. We are trying the question of the qualifications of Commodore Vardaman; and if those men have sworn falsely before the subcommittee, but also years ago, prepared and signed—or sat still while there were being prepared and signed—documents in which there are certain things against Commodore Vardaman, and Commodore Vardaman by his conduct admits the correctness of the contents of those documents, we are entitled to consider that admission, derived from the conduct of the Commodore, regardless of whether we consider the individuals Reyburn and De Coster as credible or not.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. LUCAS. What the Senator is saying he wants the Senate to do is simply to forget about the testimony of the two main witnesses who appeared before the subcommittee.

Mr. DONNELL. Not at all.

Mr. LUCAS. The Senator takes certain portions of their testimony and says, "Believe that, and disbelieve certain other portions, and reach your own conclusion as to the portions with respect to which there is no question." As I understand, perhaps some parts of the affidavits are not denied; but certain material and pertinent facts involving Commodore Vardaman are denied by these witnesses. Either they falsified in this instance, or they falsified when they made the affidavits. Would the Senator agree with me that his case would have been stronger if he had never had these two witnesses?

Mr. DONNELL. No; I do not agree to that. Those men came before the subcommittee and testified that they had executed three or four documents. Either the documents were in the handwriting of the individuals themselves, or the signatures were in their handwriting. They admitted that they had gone to Mr. Williams' office and had there signed documents which were prepared. The circumstances surrounding the confer-

ence with Mr. Williams, and all the matters which I have developed, and some others which I shall develop, to my mind made it exceedingly important that they be present and testify. To my mind the fact that they have admitted the execution of the affidavits, coupled with the conduct of Commodore Vardaman with respect to those affidavits, and other conduct, makes this case one in which the Senate is well justified in drawing the inferences which I submit should be drawn.

Mr. LUCAS. Do I correctly understand the Senator to say that, had he known in advance that these two witnesses would come here and perjure themselves, and had they told him in advance of their testimony, he still would have called them?

Mr. DONNELL. I think I would have called them if they had told me that they were going to testify exactly as they did testify, because I think the committee is entitled to know what those men say now with respect to the affidavits. I believe that in justice to them, they were entitled to come. Furthermore, I believe that the Senate is entitled to draw its own conclusion and its own inferences from the conduct of those men and the conduct of Mr. Vardaman with respect to the documents which they signed 4 years or more ago.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. I should like to say to the distinguished senior Senator from Illinois that a while ago I challenged the Senator from Missouri to take out of the case those lying affidavits and try to make a case without them. He did not accept the challenge, but insisted on keeping them in the case. I suggest that that in itself condemns his whole exposition.

Mr. DONNELL. Let me say in that connection that from time to time it has been suggested by the committee that I have been acting as a prosecutor. When I appeared before the committee and presented to it the statement, in substance, that various matters had been brought to my attention which I thought should be considered by the committee, I did so in the performance of a public duty, as I regarded it. I have continued to act in that way, as I have no doubt the members of the subcommittee have done in the performance of their duty.

Furthermore, in the list of witnesses whom I requested to have subpoenaed was Mr. Tom K. Smith, president of the Boatmen's National Bank, of St. Louis, who I knew was going to testify in favor of Commodore Vardaman. I received a letter from Mr. Harold Jolley, one of the vice presidents of the bank, I believe, and a close personal friend of mine, likewise in favor of Mr. Vardaman.

Yesterday the distinguished Senator from Colorado referred to my not having acted as a prosecutor, according to my statement. He may conclude that because of my presentation of this case I have become a prosecutor.

Mr. President, I have heard all the evidence in this case, and I have studied the record. I do not mean to say that I have read it all. I have heard all the testimony

as it was given, and I have studied a good deal of it. I have reached some conclusions in this case, and I have deemed it my duty not merely to present the facts, but to present, to some extent, the conclusions which I have drawn from the facts. I have done this in the attitude of what I think is my duty as a Senator, to bring to the attention of the Senate the facts and the conclusions which I have drawn therefrom.

Let me say to the Senator from Illinois, whose question has been in point, and most courteously put, as have been the questions from other Senators, that had I known that every witness in this case would have testified exactly as he did, I would have asked for him to come and testify before the subcommittee, leaving it to the subcommittee, and ultimately to the Senate, to use their own best judgment as to what conclusion should be drawn from the testimony.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. I should like to say to the distinguished senior Senator from Illinois that again and again I have tried to get the distinguished Senator from Missouri to say that he considered De Coster and Reyburn as reliable witnesses. He would not do so. I have asked him whether he would vouch for them. He would not do so. So, of course, I suggest that there is very little before the Senate, unless we are to take up our time considering unreliable testimony and unvouched-for testimony, and testimony, which the witnesses themselves have impeached.

Mr. LUCAS. Mr. President, will the Senator further yield?

Mr. DONNELL. I yield.

Mr. LUCAS. I agree with the Senator that he has the right to present this case in any way he sees fit before the Senate; and he has the right to draw conclusions and inferences and present them to the Senate for its interpretation. Candidly, I am a little disappointed with my good friend from Missouri, who states that had he known that these men were going to perjure themselves on the witness stand by testifying falsely, he would still have had them come here and testify. I do not quite follow that line of reasoning. I do not think there can be much question that every fair-minded individual who is sitting as a juror—as we are, more or less, in the United States Senate in attempting to pass upon the merits and demerits of this case—when two of the chief witnesses testify falsely, takes that fact into consideration. Senators who are opposing this nomination are relying upon two chief witnesses. It is admitted by the able Senator from Missouri and by practically every member of the committee that these men testified falsely on material and pertinent matters before the committee. It strikes me that it would be unusual if we did not take that fact seriously into consideration, especially when the Senator is relying primarily upon those witnesses to show that Vardaman's nomination should not be confirmed.

The confirmation of any nomination before the Senate is a very serious matter. Certainly facts going to the char-

acter, integrity, and ability of the nominee should be considered. But I do not believe that the Senator ought to ask me not to vote to confirm the nomination on the basis of pure inference, or on the basis of a bit of testimony by these two witnesses, which perhaps is not contradicted, when other parts of their testimony are admitted by all to be absolutely false. That is the thing which is worrying the Senator from Illinois. All through my life I have seen the rules of law applied to that type of evidence; and certainly I believe that the Senate would be justified in making the same application in this instance.

Mr. DONNELL. Mr. President, I appreciate the questions and observations of the Senator, and his expression of disappointment over the fact that I have answered the question in the way that I did.

To my mind the Senate of the United States was entitled to know what the men who had it within their power to have brought about tampering with the inventory would say. Mr. Reyburn was the superintendent in charge. He was the man who, according to his own statement, was authorized and directed to take the inventory. Obviously, to my mind, he should testify before the committee. If he chooses to come here and not tell the truth to the Senate, the Senate, in its own good judgment, can determine whether he is or is not telling the truth.

The same thing is true of Mr. de Coster, who was the comptroller of the company. He did not have charge of the actual physical taking of the inventory. To my mind the duty which rested upon me was to bring in, or request that there be brought in, every person, so far as we could know, who probably knew anything about the taking of the inventory.

Let me say to the distinguished Senator from Illinois that I did not know when these men came here what they would testify to. I do not recall ever having met Mr. Reyburn, though I may have met him. I was in Owensville, Mo., during my campaign for the United States Senate, and Mr. Bittner himself took me through that plant. I did not know, until he came to Washington, that he was the same man. I did not know his name when he took me through the plant. I may have seen Mr. Reyburn then, but I did not know to what he would testify. I did not know to what Mr. de Coster would testify. I had met Mr. de Coster when I was in St. Louis in the early part of February. I arranged to have Mr. de Coster confer with me, which he did, at the office which was kindly allotted to me in the Federal Building in St. Louis. At that time Mr. de Coster expressed himself in very fine terms commendatory of Commodore Vardaman. The whole inference which I drew in my own mind with respect to Mr. de Coster was that his testimony here would probably likewise be favorable to Commodore Vardaman.

I wish to say further to the Senator from Illinois that I had never seen the photostatic copies of the affidavits until they were brought here by Mr. Bittner, although I had been informed generally of the fact that they would disclose tampering with the inventory at the direc-

tion of Commodore Vardaman. I had not been told that by Mr. Bittner, but I had it upon information which I deemed to be proper and reliable, and I so informed the committee itself.

So, Mr. President, I do not regard my attitude as in any sense reprehensible. While I have no doubt as to the sincerity of the Senator from Illinois in expressing his disappointment; I do not think there is any proper censure which could be placed upon me for having brought those men to Washington, even if I had known in advance every word they would testify.

Let me say further that I did not bring them to Washington, but I requested that they be brought here. Certainly the testimony of one of them was that he came here of his own volition. I am inclined to think that both of them indicated or at least inferred that they did so. However, I wish it understood that although I did not bring them to Washington, I thought they should be here. I had telegraphed the chairman of the subcommittee, the Senator from Maryland [Mr. RADCLIFFE], to that effect from Kansas City on the night intervening between February 12 and February 13. I had said to the subcommittee on several occasions that I wanted them here; and I am glad the committee obtained their testimony.

Mr. LUCAS. Mr. President, will the Senator yield further?

Mr. DONNELL. I yield.

Mr. LUCAS. I am sorry to be taking up so much time—

Mr. DONNELL. That is quite all right; the point is a very important one.

Mr. LUCAS. I wish to say that I am glad the Senator brought the witnesses here, and certainly I do not place any blame for producing the witnesses and reducing their testimony to writing. However, I cannot quite follow the Senator's line of reasoning when he says that had he known in advance that both De Coster and Reyburn would go before the committee and raise their hands and swear to Almighty God to tell the truth, and then perjure themselves, he still would have called them and had them testify—even if he had known all that in advance. In my section of the country an attorney conducting a law suit who calls a witness to testify and is told in advance by the witness that he will lie about the matter when he goes on the witness stand, if the witness does so and the court finds it out, will find himself in a very difficult situation.

Mr. DONNELL. I can readily understand that attitude of a court. If any lawyer undertakes to make a case by, himself, producing perjured testimony in support of his case, I agree that that is thoroughly reprehensible. But, as I view the matter, in this case the persons who knew the facts were Reyburn, De Coster, Bittner, and Vardaman, and the committee was entitled to hear from them, even if they should go on the witness stand and testify from beginning to end without regard to the truth. The committee was entitled to hear what they had to say, and I think it was entirely proper to bring them here. I was not attempting to make out a case for a client. I was attempting to present to

the committee the facts which were known by the various persons.

I appreciate the very courteous reference of the Senator from Illinois. I wish to state to him and to the Senate that I have no apology of any kind, nature, or description to make for having interrogated the witnesses or for presenting to the Senate at this time what I think are the proper conclusions to be adduced from their testimony.

Mr. MILLIKIN. Mr. President, will the Senator further yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. I believe the matter to which I shall refer has been made clear already, but I wish to double-rivet it, if it has not been. Will the Senator state what witnesses appeared before the subcommittee and, of their own knowledge, testified that Commodore Vardaman had tampered with an inventory or had caused it to be tampered with?

Mr. DONNELL. Mr. President, I know that the Senator from Colorado can answer the question, and I also can answer it. There was no witness who testified in words to that effect. But, Mr. President, there were circumstances, some of which I have attempted to detail this afternoon, which, to my mind, justify the Senate in drawing the inference and conclusion to which the Senator has referred.

Let me say further that I know the Senator from Colorado is a lawyer of wide experience. Undoubtedly he realizes that there are many facts which are not proven in a court proceeding or elsewhere by direct testimony or by admissions of witnesses, but which depend for their establishment upon inferences, upon circumstantial evidence, upon a chain of evidence or circumstances which, regardless of what the witnesses may say with their tongues and their lips, may nevertheless speak louder than the words which they utter.

Mr. MILLIKIN. Mr. President, will the Senator further yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. I am devoting my attention now to illuminating the extent of the direct testimony, if any, connecting Commodore Vardaman with the inventory. So I shall ask the Senator now whether there was anyone who was put on the witness stand from whom the Senator hoped to obtain direct testimony, other than Bittner, Reyburn, and De Coster.

Mr. DONNELL. No; there certainly was not. In my judgment, Mr. Bittner did not know the facts as to who had done the work, other than what was contained in the affidavits. Mr. Bittner was not present at the making of the inventory. I never expected that he would testify as to who it was who caused the inventory to be tampered with. He knew nothing of it of his own personal observation. But I did know that Mr. Bittner had in his possession affidavits which I had been informed would state, as I recall, that the tampering had occurred as the result of the direction of Commodore Vardaman.

Mr. MILLIKIN. Mr. President, will the Senator further yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. So, in net conclusion, Bittner had no personal knowledge, and De Coster and Reyburn repudiated whatever the Senator thought they would testify in respect to connecting Commodore Vardaman with the tampering. Is not that true?

Mr. DONNELL. That is correct. But, Mr. President, that still leaves numerous circumstances to which I have referred, from which the Senate may draw its independent conclusions, regardless of the statements emanating from the lips of the witnesses themselves.

Mr. MILLIKIN. Mr. President, will the Senator further yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. But the Senator from Missouri still refuses to eliminate the testimony of Reyburn, Bittner and De Coster; he continues to keep that testimony in his case as a basis for his inferences.

Mr. DONNELL. I certainly do keep every jot and tittle of testimony in this case, because all of it has a bearing. All of it constitutes a series of links in the chain of testimony in the case.

Mr. President, before the Senator from Illinois leaves, if he intends to do so, I should like to make a further statement—namely, that Mr. Williams, as I see it from the standpoint of proper professional ethics, declined to testify as to the conversations which had ensued between himself and Mr. de Coster in connection with the preparation of the affidavit of January 31 which I am about to read, because of the fact that Mr. Williams could not be sure whether the relationship of attorney and client had begun between him and Mr. de Coster before or during or subsequent to the process of the preparation of the affidavit.

Mr. President, I now offer to the Senate—and it was offered to the subcommittee—exhibit E. It is a photostatic copy of what I submit is shown by the testimony of Mr. Williams to be a conformed carbon copy of the affidavit of January 31 of Mr. Paul de Coster, which was sworn to before Martha Harris, notary public. The affidavit reads as follows:

State of Missouri, city of St. Louis, ss.

I wish to say at this point—and I think I should do so in fairness to the committee and to all parties—that in the course of the hearing before the subcommittee the point was made that Mr. Williams had not examined either of the affidavits which are marked "exhibits E and F" against the original affidavits. There was discussion as to whether under the law of evidence he could, therefore, testify whether the documents were copies of the original affidavits. As I view the matter, Mr. Williams made, under the law, an admission as to the correctness of which I am doubtful; and he himself, as I view the matter from his evidence, later became doubtful of it. He was inclined to think that it would have been necessary for him to examine the documents against the originals. However, Mr. President, I do not concur in that view, and I certainly think the Senate has a right to determine whether it is the proper view. In the light of the fact

that Mr. Williams testified that on the day preceding his testimony before the subcommittee, he, in my office in the Senate Office Building in Washington, examined those two documents and recognized the substance of them to be the same as that of the affidavits, I respectfully insist that these documents are admissible in evidence and should be admissible even in a court.

Now I present exhibit E.

STATE OF MISSOURI,

City of St. Louis, ss:

I, Paul de Coster, of lawful age, being duly sworn, depose and state:

That I am the duly elected comptroller and assistant secretary of the Vardaman Shoe Co., having its principal office in St. Louis, Mo., and have served in that capacity for approximately 2 years up to the date of making this affidavit.

I have read the affidavit of Mr. Samuel Reyburn, verified before Martha Harris, notary public, under date of January 30, 1942, and confirm and verify all of the statements therein contained, subject to the reservation that I do not have personal knowledge regarding the actual method employed in making this inventory, and the facts respecting the changes made therein because I was not physically present at the places where the same were done.

Mr. President, I digress here to interpolate the statement of fact that the affidavit of Mr. Reyburn which, as has been indicated, was executed on January 30, 1942, and the testimony of Mr. Williams completely and clearly annihilated any testimony which was given by either Reyburn or De Coster to the effect that there had been any intimidation, duress, cajolery, or other improper means used to bring about the signatures on the originals of these affidavits.

I continue reading from exhibit E:

When Mr. Reyburn, as stated in his said affidavit, returned to St. Louis and delivered the inventory to me—

Mr. President, I digress again and ask pardon for not having thought of the fact before, but it will be recalled that in the affidavit of Mr. Reyburn under date of January 30 there is confirmation and verification of the statements contained in the affidavit of Mr. de Coster, subject to the reservation which I have read. The statement to which I refer is as follows:

After a brief conversation Mr. Vardaman asked Mr. de Coster what the final figure in the inventory was, and Mr. de Coster told him. Mr. Vardaman then turned to both of us and stated that this inventory would have to be changed so that the company would show a profit of \$20,000.

Mr. President, before continuing with a reading of exhibit E, I desire to invite the attention of the Senate to the fact that, as I recall the testimony of Mr. Reyburn, he himself admitted that when he went to the office of the company on Washington Avenue, in St. Louis, with the inventory sheets, Mr. Vardaman, according to his recollection, joined him and talked with him. Furthermore, I believe he said—I would have to check it to substantiate my recollection—that Mr. Vardaman asked him, Mr. Reyburn, what the figure was in the inventory.

I now continue reading exhibit E:

When Mr. Reyburn, as stated in his said affidavit, returned to St. Louis and delivered

the inventory to me, on or about December 15, 1941, I, within a few minutes thereafter, and without making any examination of the inventory, delivered the inventory to a representative of Ernst & Ernst, who at that time was present and in process of making the audit and whom I remember as being Mr. Leisse. This representative of Ernst & Ernst accepted the delivery of this inventory without any comment and the subject of same was not brought up or discussed by me with anyone until in the course of the audit the representatives of Ernst & Ernst began to question the accuracy of certain items in the office of the Vardaman Shoe Co., the exact time of which I do not recall but it was approximately 3 or 4 days after my delivery of the inventory as above stated.

Subsequently, further discussions regarding this inventory were had with the auditors and in all of these discussions the discrepancies therein contained were brought up for discussion. In the course of these conferences with the auditors regarding the accuracy of the inventory I was questioned regarding the discrepancies and my answer to those questions was that the inventory was made and compiled under Mr. Reyburn's supervision, and my explanations of these discrepancies were predicated upon verification by Mr. Reyburn, since my knowledge of the operations involved in the shoe factory was not sufficient to warrant a positive statement as to the reasons for such discrepancies.

After the auditors questioned the accuracy of the inventory, I, of course, felt it incumbent upon me to report this to Mr. Vardaman, which I did, and Mr. Vardaman, as president of the company, ordered me to confer with Mr. Reyburn for the purpose of priming him and prevailing upon him to support the inventory as submitted. Acting under those instructions, I went to Owensville, discussed the matter with Mr. Reyburn, advised him of the instructions which I had received from Mr. Vardaman, and discussed with Mr. Reyburn the possible plausible explanations to support the same. He made such explanations to me and upon my return to St. Louis I discussed the inventory situation with Mr. Vardaman.

Subsequent I discussed the entire subject of this inventory with Mr. Vardaman at his office in the Naval Intelligence Office in St. Louis. Mr. Vardaman telephoned me and told me he had been in conference with the auditors and then summoned me to his office in the Capital Syndicate Trust Building to discuss the matter. I went to the office as directed and Mr. Vardaman and I discussed the inventory situation in its entirety. Mr. Vardaman stated that Ernst & Ernst were on the verge of demanding that a new inventory be taken as of January 31 and asked me if I thought it would be possible to substantiate the inventory of November 30 if such a new inventory as of January 31 was taken. I told him that, frankly, it would be an impossibility to support the figures contained in this inventory.

The possibility of calling Mr. Reyburn from the office of Ernst & Ernst at the meeting next scheduled was discussed, and Mr. Vardaman decided that we should talk to Mr. Reyburn from his office and tell him that we were going to hold this meeting with the auditors at their office, and in the event he received a phone call from either Mr. Vardaman or myself, he was to be on his guard, realizing that the phone call was originating in the presence of representatives of the auditing firm.

Then Mr. Vardaman called the auditors and told them that he would be late, but that if I came in just ask me to wait. It was then suggested by Mr. Vardaman that I proceed to the office of Ernst & Ernst alone and prior to his arrival.

Upon arrival at the office of Ernst & Ernst I was called in the office. Mr. R. A. Huelisick and Mr. Stafford were invited in and we began

discussing some general aspects of the situation. Shortly thereafter, Mr. Vardaman arrived and a discussion of the inventory matter began. The inventory sheets were then turned over to me so that I might review the method of pricing used, which the auditors questioned, after which Mr. Vardaman and I left the office of Ernst & Ernst. During this conference Mr. Vardaman sought to vindicate in every way the authenticity of this inventory, or at least it appeared to me that when we left some of the doubts in the minds of the auditors were relieved. During the conference in Ernst & Ernst's office the auditors directed the attention of Mr. Vardaman and myself to certain erasures of quantities and apparent doubling of the figures as written on the sheet, and told Mr. Vardaman that it was certainly a matter that he should investigate thoroughly.

Having received the inventory papers from Ernst & Ernst, I returned to the office and upon my return from the Chicago shoe show began examining those papers, with a view to ascertaining the basis of pricing used. When I felt that I had sufficient data in hand regarding the basis of pricing used, I called the auditors and informed them that I was prepared to discuss the question of pricing of the inventory. Eventually, the auditors returned to the office and the inventory papers were then returned to them with the figures on the inventory sheets in nowise altered by me.

After a lapse of several days, I called Mr. Vardaman on the telephone and said that I thought he should call the auditors and ask when the statement would be ready, in view of the fast approach of the date for the stockholders' and directors' meetings, and he replied that he would call them at once. A few minutes later he called me back on the telephone and stated that he was going to the office of the auditors. Thereafter, during the day, I received another call from Mr. Vardaman in which he advised me that he was at the office of the auditors and requested me to meet him there and which I did. At that conference there was present, besides myself and Mr. Vardaman, Mr. Brunk, Mr. Huelsick, and Mr. Stafford, of Ernst & Ernst, and we were informed by Mr. Brunk that the inventory was entirely unacceptable, that it had been deliberately padded, and Mr. Brunk—

The words "several times" are inserted with a caret, then the initials in pen and ink, "P. de C.," and then the interlineation stops. I resume the reading:

Mr. Brunk informed Mr. Vardaman that, as president of the company, it was his responsibility to immediately investigate and ascertain the identity of the persons responsible for these discrepancies and to report the same to the board of directors and that such meeting of the board of directors should be held as quickly as possible. Whether or not Mr. Vardaman followed that advice to report to the board I do not know of my own knowledge.

However, subsequent to this meeting with the auditors, Mr. Vardaman instructed me to immediately and from a telephone at which I could not be overheard, get in touch with Mr. Reyburn and have him meet me privately and where we would not be overheard in order that we could discuss ways and means of still substantiating the questioned inventory and in order also to caution him to be on his guard. Upon meeting Mr. Reyburn and informing him of what I considered the seriousness of the situation, Mr. Reyburn's first reaction was that he would bring in the duplicates of the original inventory, turn them over to the authorities, and simultaneously hand in his resignation. The next morning Mr. Vardaman called me and asked me the result of my meeting with Mr. Reyburn and I informed him of Mr. Reyburn's first reaction. Mr.

Vardaman then said that if Mr. Reyburn wished to do that, that was O. K.

Further affiant sayeth not.

(Signed) PAUL DE COSTER.

Subscribed and sworn to before me this 31st day of January 1942.

My commission expires May 12, 1943.

(Signed) MARTHA HARRIS.

And the word "seal" in pen and ink, then the words "notary public."

Mr. President, the testimony of Mr. de Coster was, generally speaking, to the effect that the statements which in any way reflected upon Mr. Vardaman in this affidavit were not true, and were induced by the intimidation and duress of Messrs. Bittner and Frank Williams.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. Would the Senator be good enough to detail the various types of coercion which de Coster and Reyburn testified operated on them at the time they made this so-called original affidavits.

Mr. DONNELL. I think I have already done that; but I shall try to amplify it a little, and if I do not include all of it, I should be glad to have the Senator supplement it.

The testimony generally was that these men, Mr. de Coster and Mr. Reyburn, each separately, as I have indicated, went to the office of Mr. Williams with Mr. Bittner; that Bittner and Williams, by all sorts of duress—I do not know whether the word duress was used, I do not recall what the witnesses said, if they did say what the language was, but the general substance was that Bittner and Williams had kept at these men until finally, worn out, they signed what was put before them, and that these statements adverse to Mr. Vardaman were not true.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. DONNELL. Pardon me for a moment. Furthermore, there were intimations to the effect that there should be close cooperation between Bittner and these respective witnesses, the intimation being in the testimony, as I understand it, that Bittner suggested that if these men did not sign they would lose their jobs. Moreover, Bittner is said to have indicated that if he did not get his money back from Mr. Vardaman he could not send his son to college.

The further statement was made, so Reyburn and De Coster testified, as I recall, that Bittner had a claim against Vardaman and he wanted these affidavits in order to support that claim.

The statement was further made, as I recall, that these affidavits would be destroyed or returned to the affiants, I do not recall which.

Does that satisfactorily answer the Senator?

Mr. MILLIKIN. I thank the Senator very much.

Mr. MORSE. Mr. President, will the Senator from Missouri now yield?

Mr. DONNELL. I yield.

Mr. MORSE. I have received a telegram which sets forth a series of questions on matters with which I am not familiar, because I have not had an opportunity as yet to complete my study of

the record. I had the record this morning for a while, but it is out of my possession again this afternoon, though I have a promise that I shall be able to get it again tonight, when I can study it further. I understand that the Senator from Missouri attended—

Mr. HATCH. Mr. President—

The PRESIDING OFFICER. The Chair suggests that the Senator from Oregon speak a little louder.

Mr. HATCH. I wondered if the Senators were engaging in a private conversation. [Laughter.]

Mr. MORSE. I shall be very glad if the Senator will come over and join us.

Mr. DONNELL. We shall be glad to have Senators on the other side join us on this side.

Mr. MORSE. I wanted to save the voice of the Senator from Missouri, because I think he has many more important things to put into the RECORD. But I shall try to speak so that the Senator from New Mexico can hear me.

I was saying to the Senator from Missouri that I have received a telegram which sets forth a series of questions the answers to which I do not know, and I was about to ask the Senator whether it is true that he attended all the hearings of the subcommittee when Mr. Vardaman was before it.

Mr. DONNELL. Yes; I did.

Mr. MORSE. Then, I shall address some of these questions to the Senator, in the hope that perhaps his knowledge of the hearings will enable him to give me answers, and if not, at a later hour I shall address some questions to my good friend the Senator from Colorado [Mr. MILLIKIN].

I received this message from the editor of a magazine called Finance, which I believe is published in St. Louis, but I am not sure about that. The first question I submit to the Senator from Missouri is this:

If there is no basis for the charges made by Bittner that Vardaman misrepresented value of stock in the financial statement he gave Bittner, why did Vardaman give him a deed of trust to his farm?

Does the Senator think I might find an answer to that question in the record?

Mr. DONNELL. I think the Senator will find that the charge was made against Mr. Vardaman that he had, by misrepresentation in the financial statement which I have exhibited to the Senate, secured from Mr. Bittner \$9,375, of which \$4,000 was in cash, the balance in a note from Mr. Bittner; that thereafter Mr. Bittner, charging that the sale of the stock was based on fraudulent representations, demanded, both personally of Mr. Vardaman and through his attorney, Mr. Williams, that Mr. Vardaman reimburse Mr. Bittner for the amount expended by him, or make some type of settlement; that Mr. Vardaman thereupon engaged Capt. Clark Clifford, who was a lawyer in St. Louis, to represent his interests; but that prior to the engagement of Captain Clifford, Mr. Vardaman had himself agreed with Mr. Bittner, or his attorney, Mr. Williams, that he, Mr. Vardaman, would make a settlement.

I think the testimony shows that he agreed that the amount to be repaid to Mr. Bittner was \$5,375 by note secured

by deed of trust on the farm in St. Louis County, coupled with the agreement, I think, as it was ultimately made, I think, on March 14, 1942, that as each dollar was paid on the note one share of stock was to be surrendered by Mr. Bittner back to Mr. Vardaman.

I may say, Mr. President, that I am not certain that the testimony affirmatively shows that all this detail I have mentioned had been agreed to by Mr. Vardaman and Mr. Bittner or his attorney, Mr. Williams, in advance of the engagement of Mr. Clifford, but I am quite clear that Mr. Clifford testified that Mr. Vardaman had made, in advance of the engagement of Mr. Clifford, the agreement to settle.

The evidence shows that subsequently, on or about March 14, 1942, the settlement was concluded by the issuance of the note and delivery of the deed of trust upon the property. It was on that date, according to the testimony of Mr. Williams, that there was a request by Mr. Vardaman, after the signing of the papers, that the affidavits, meaning, I think, those executed in the office of Mr. Williams by Reyburn and de Coster, be destroyed. Mr. Williams and Mr. Vardaman, according to the testimony of Mr. Williams, went to the shower room of the law firm, and there Mr. Vardaman applied the match, and they were destroyed.

I think I should say in fairness to Mr. Vardaman that he denies that there was any request on his part for or any knowledge of any destruction.

I think I should say further that Mr. de Coster testified that he, de Coster, was present when they were destroyed, but Mr. Williams denied it. Mr. Williams had his time sheets, or rather those that had been made up by transcription, as is customary in his office, for March 13, which do not show the presence of Mr. de Coster, but which do check the presence of the other gentlemen.

Mr. President, to my mind the evidence I have mentioned here—and there may be some other facts and circumstances which I do not at the moment recall—amply justify the answer to be made to the inquiry contained in the telegram which the Senator from Oregon has in his hand, that Mr. Vardaman realized that there was merit in the claim of Mr. Bittner. I may say also that Mr. Williams testified that the affidavits of Reyburn and de Coster were shown to Mr. Vardaman. Mr. Vardaman denies that. Mr. Clifford states that he never saw them, but he knew that certain affidavits were in existence.

Does that answer the question contained in the telegram, which the Senator read?

Mr. MORSE. That certainly supplies me with information with respect to the question asked in the telegram.

Mr. DONNELL. Pardon me. I did not mean to ask the Senator to bind himself as to whether he joined in the conclusion at which I had arrived. I wanted to give the Senator the facts which would give him in a general way my views.

Mr. MORSE. I am satisfied that the Senator's statements are in response to the question.

Mr. MILLIKIN. Mr. President, may I ask the distinguished senior Senator from Oregon to read the question again?

Mr. MORSE. It is as follows:

If there is no basis for the charges made by Bittner that Vardaman misrepresented value of stock in the financial statement he gave Bittner, why did Vardaman give him a deed of trust to his farm?

Mr. MILLIKIN. May I make an observation on that subject?

Mr. DONNELL. Yes.

Mr. MILLIKIN. The deed of trust to the farm was merely security for a note which Commodore Vardaman gave to Mr. Bittner for the purchase back by Commodore Vardaman from Bittner of—my memory is—some 3,000 shares of stock of the 9,000-plus shares which Bittner had bought.

Mr. DONNELL. Five thousand three hundred and seventy-five.

Mr. MILLIKIN. Is it 5,375?

Mr. DONNELL. Yes.

Mr. MILLIKIN. Of the 9,000-and-some shares which Bittner had bought from Vardaman. So, it will be noticed at once that Vardaman did not agree to buy back all the shares. There is no implication, as I recall, that Vardaman bought the shares back under any consciousness of wrong-doing. Mr. Williams, when I asked him whether there had been any admissions against interest in the settlement, said there had not been.

The distinguished senior Senator from Missouri has pointed out to me that what purports to be a copy of the contract between Vardaman and Bittner mentions \$5,375 as the indebtedness and that this was to be discharged by one share of stock for \$1 of indebtedness. Is that correct, I ask the Senator?

Mr. DONNELL. It is.

Mr. MILLIKIN. There is nothing in the record, and Mr. Williams stated specifically that there was nothing in the settlement that represented any admission against interest by Commodore Vardaman. Then, why did he buy back any stock? It was very obvious that Mr. Bittner was not satisfied with the deal, and, as often happens in transactions of that kind, a man says, "Well, you are not satisfied. I will go part of the way with you and take this back."

The point I want to emphasize is that there is nothing in the record to indicate that Vardaman was settling on the basis of a blackmail scheme, or that Williams, under his own testimony, was considering that he was engaged in a blackmail scheme. Williams testified that he took these affidavits in the same way that any cautious lawyer takes a statement or an affidavit, as a safeguard against the possibility of witnesses running out on him in future litigation such as Williams said he might conduct in Bittner's behalf.

Mr. McFARLAND. Mr. President, will the Senator yield?

Mr. DONNELL. I shall yield in a moment. I am pleased that the Senator from Colorado mentioned that there was no settlement of this case on any blackmail basis. Indeed, my recollection of

the testimony is, and my note here indicates, that Mr. Vardaman said that he was not buying affidavits, and from that I draw the inference, which I submit for the consideration of the Senate, that if he was not buying the affidavits—and I do not think he was buying them—there was no blackmail in it, as the Senator from Colorado has indicated. So the Senate can then reach the conclusion that Mr. Vardaman was settling on the merits of the case rather than on the basis of any affidavits, and was paying \$5,375 in the form of a note because of those merits.

I now yield to the Senator from Arizona.

Mr. McFARLAND. I should like further to supplement the statement of the able Senator from Colorado by saying that Commodore Vardaman made it plain that at the time the stock transaction was made probably both he and Bittner thought the company was in somewhat better financial condition than it really was, and that he was willing to buy back, say, half of the stock, and so indicated shortly after he had sold him all the stock; that Mr. Bittner had said that he had bitten off more than he could chew—I think that was the expression used—and that he, Commodore Vardaman, still had confidence that the company would snap out of it and would make money. I may say that I understand Mr. Bittner is making money out of it right now.

Mr. MORSE. Mr. President, will the Senator from Missouri yield further?

Mr. DONNELL. I do; yes.

Mr. MORSE. I may say that the second question apparently deals with an allegation that at one time the trustee in bankruptcy in the Federal court proceeded against Mr. Vardaman on a charge of embezzlement and willful misappropriation of funds, and that the action was subsequently dismissed.

Is there anything in the record which bears upon that matter? Let me put the question as it appears in the telegram:

Why was the suit to recover \$2,804 on Vardaman's bond brought by the trustee in bankruptcy in Federal court charging embezzlement and willful misappropriation dismissed? The charges were neither proved nor disproved. What were the circumstances under which Judge Moore dismissed the suit?

Would I find anything in the record bearing upon this question?

Mr. DONNELL. Yes; Mr. President, the record will show that a suit for \$2,804.34 was brought by Mr. William R. Gentry, trustee in bankruptcy of the Vardaman Shoe Co., against the bonding company of Mr. Vardaman, which suit made various charges of misapplication, embezzlement, and so forth.

The testimony shows that this suit was subsequently dismissed by the trustee, Mr. Gentry, at the cost of the trustee. My recollection of the testimony of the trustee is that a reorganization of the company was in process, and that it was desired by all parties that this claim should be closed up, the whole matter adjusted; that is, and wound up in the reorganization, and that, therefore, the

suit itself was never prosecuted, but was dismissed because it was desired by all parties in interest that there be a final termination of the affairs of the company.

I think that is a fair statement. Is it not, I will ask the Senator from Colorado?

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. I would not quarrel with what the Senator has said. I simply point out that there is no inference of guilt from a suit being dismissed by the opposing party at his own cost.

Mr. DONNELL. I concur in that statement.

Mr. MORSE. The junior Senator from Oregon certainly concurs in it, too, but the question was asked, and I am simply trying to find out whether there was anything in the record which would throw any different light upon it than I assume would be disclosed when the suit was dismissed.

Mr. McFARLAND. May I supplement the statement of the Senator from Colorado by saying that the evidence does show that the board of directors approved the major portions of the items contained in the suit.

Mr. DONNELL. Mr. President, in that connection I think it only proper to say that the items to which I think the Senator from Arizona refers were approved by the board of directors on January 30, 1942. I take it that what the Senator is referring to is the unanimous adoption of a resolution which appears on page 170 of the minutes of the shoe company, reading as follows:

Be it resolved, That payment of interest on personal loan of James K. Vardaman, Jr., at the National Stockyards National Bank heretofore made by the company out of its funds be, and the same is hereby approved; that purchase of symphony tickets, horse show tickets, Christmas present to George Ineichen and wife, and advertisement in the Censor, heretofore paid out of corporate funds be, and the same is hereby approved; be it further

Resolved, That all apparent personal payments out of corporate funds be from this date forward discontinued unless specifically authorized by this board of directors.

I call attention to the fact that this action was on the 30th of January, 15 days before the institution of the bankruptcy proceedings. Was that the action to which the Senator from Arizona referred?

Mr. McFARLAND. That is only a part of it. I shall refer to the other part of it.

Mr. DONNELL. I will appreciate it if the Senator will do so. I do not recall any further item.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. MORSE. Am I to understand that the attorney, Mr. Williams, who testified before the committee, is the same Mr. Williams who is a member of Fordyce, White, Mayne, Williams, & Hartmann in St. Louis?

Mr. DONNELL. That is correct. I may say in that connection that Mr. Vardaman in his testimony on the stand

referred to Mr. Williams as working for Sam Fordyce, or working in his office. The fact is, however, that Mr. Williams is—and I think the testimony shows that he has been for many years—a member of that firm. I think he testified that he had practiced law for about 26 years.

Mr. RADCLIFFE. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. RADCLIFFE. Did not Commander Vardaman correct his statement and explain what he meant by working for Mr. Fordyce? Did he not state that they were associated? I think he stated very definitely in his testimony that Mr. Williams was a member of the firm.

Mr. DONNELL. Will the Senator indulge me while I get the testimony?

Mr. MORSE. I am very happy to do so.

Mr. DONNELL (after examining papers). I wonder if I may supply that information for the RECORD a little later, so as not to take too much time now.

Mr. McFARLAND. Mr. President, I do not think there is any controversy over the question. I think it is generally admitted that Mr. Williams is a member of the firm.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. I should like to repeat the theme of the Senator from Arizona. There is no dispute that Mr. Williams is a partner in that firm. Can we not concede that and get on?

Mr. DONNELL. It is perfectly agreeable to me.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. MORSE. I ask the Senator from Missouri if it is true that Mr. Williams, as shown by the record, testified that he was or was not present at the burning of the affidavits?

Mr. DONNELL. He testified that he was present.

Mr. MORSE. That Mr. Williams was present?

Mr. DONNELL. That he, Mr. Williams, and Mr. Vardaman, were personally present in the shower room of the law firm, which is in the Mississippi Valley Trust Building in St. Louis, Mo., and that Commodore Vardaman, in his presence, applied the match to the affidavits when they were destroyed.

Mr. MORSE. And Mr. Vardaman denied that he was present at the burning of the affidavits.

Mr. DONNELL. He did.

Mr. MORSE. Did Mr. Williams testify that any other member of his firm was present at the burning of the affidavits?

Mr. DONNELL. He did not.

Mr. MORSE. Was he asked whether any other member of his firm was present at the burning?

Mr. DONNELL. I do not think he was. I think I did ask him, however, who were present.

Mr. MILLIKIN. Would not the Senator say that Mr. Williams, at least by strong implication, excluded the presence of any other person?

Mr. DONNELL. Yes; I think that is true.

Mr. MORSE. In order to complete the record—

Mr. DONNELL. Just a moment. I should like to speak to the Senator from Colorado.

(At this point Mr. DONNELL conferred sotto voce with Mr. MILLIKIN and Mr. RADCLIFFE.)

Mr. WHITE. Mr. President, will the Senator from Missouri yield?

Mr. DONNELL. I yield.

Mr. WHITE. I wonder whether it is the Senator's purpose or hope to conclude this evening?

Mr. DONNELL. I doubt if that is possible. I do not believe, unless we remain in session until an unreasonably late hour, that I can conclude today.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. MORSE. If that be the case, in view of the very conscientious, sincere, and able presentation which the Senator from Missouri has been making for the past 2 days, I think it would be only a matter of fine parliamentary courtesy to extend to the Senator the benefit of a recess of the Senate at this time until tomorrow at 12 o'clock noon. After all, it is perfectly obvious to those of us who have listened to the Senator that he is proceeding in good faith, from a conviction that this nomination should not be confirmed by the Senate. He has been on his feet for many hours, and I think it is only fair and right under the circumstances that we extend to him the courtesy of a recess until tomorrow at 12 o'clock noon, if that meets with the approval of the minority leader.

Mr. RADCLIFFE. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. RADCLIFFE. Certainly it is the desire of all Senators to extend every courtesy to the Senator from Missouri. But I am wondering if we cannot arrive at some estimate as to the length of time which will be required for the consideration of this nomination. As chairman of the subcommittee, I have received a great many inquiries as to what might be expected, and I cannot say. It is certainly our desire to be as considerate as we can of the Senator from Missouri, but we must reach an end to the consideration of this matter as quickly as possible. Important legislation is pending. Therefore, it would be rather helpful if the Senator from Missouri could give us some idea as to how much longer he will require so that we may plan accordingly.

Mr. DONNELL. Mr. President, I appreciate the courtesy of the Senator from Oregon and the Senator from Maryland. In my judgment, it will require between half an hour and an hour to complete the presentation of my argument.

Mr. MORSE. Without interruption.

Mr. DONNELL. Without interruption.

Mr. President, I should like to reply to the question of the Senator from Oregon as to whether there was any evidence of anyone else being present, or words to

that effect, which he read from the telegram. Will he be kind enough to read it again?

Mr. MORSE. Suppose I read two paragraphs from the telegram. I have not yet read from the telegram. I have been discussing in my own words the contents of the telegram.

Mr. DONNELL. Before the Senator reads from the telegram I should like to interpolate this observation:

I have spoken both to the Senator from Maryland [Mr. RADCLIFFE], chairman of the subcommittee, and to the Senator from Colorado [Mr. MILLIKIN]. I have not spoken to the Senator from Arizona [Mr. McFARLAND]. If he would like to have me consult him, I shall be glad to do so. The question is whether or not certain information which was given to me by Mr. Williams, but which is not in the record, should be mentioned upon the floor of the Senate. The two Senators with whom I have conferred have indicated that they have no objection. If the Senator from Arizona has any objection, I should be glad to know it.

Mr. McFARLAND. I do not believe that any Senator can object to any other Senator giving any information which he may have. So far as I am concerned, I would not wish to rely upon any information which a witness might have given when he appeared before the committee, but which he did not think enough of to place it in the record. That is my impression, but I think the Senator's conscience should be his guide.

Mr. DONNELL. I appreciate the courtesy of Senators.

The other day, after Mr. Williams had completed his testimony, he came to my office. He had been there before. He conferred with me on the Sunday when he arrived in Washington, and we went over the facts quite fully. After the conclusion of his testimony he returned to my office. As nearly as I can recall, he made this statement—I may be slightly in error in my recollection, but I will relate the statement to the best of my ability.

He stated that either at or about the time that he and Mr. Vardaman were leaving the shower room where the burning had taken place, the senior partner, Mr. Fordyce—he did not use the expression "senior partner," but it was Mr. Sam Fordyce, of the firm—came along near that portion of the office and saw Mr. Williams. I am not certain whether he said he saw Mr. Vardaman, but he saw Mr. Williams. It appears that near the washroom are certain toilet facilities. Mr. Fordyce said to Mr. Williams, according to the information which Mr. Williams gave me, "What are you doing in there?" and laughed. I may say that Mr. Fordyce is quite a wag, and is generally known as a man with a good deal of humor. He made some humorous remark in connection with the matter, having to do with the close proximity to the toilet facilities. Mr. Williams stated that thereafter Mr. Fordyce had told various persons around the city this little joke, as he considered it, about Mr. Williams. I have an idea that that is what is referred to in the telegram which the Senator from Oregon has. I have re-

peated Mr. Williams' statement to the best of my recollection.

Mr. MORSE. Mr. President, before I read these two questions, let me make it clear for the record that I do not know the answers to them. I did not solicit this telegram. It was sent to me without any previous knowledge on my part. I have not yet had ample opportunity to study the record, to know what foundation can be found in the record for an answer to the telegram; but here are two questions, and I shall read the paragraphs together—

Mr. DONNELL. Will the Senator allow me to interpolate one observation? I know from whom this telegram comes—at least I think I know. The sender is a man by the name of Reuben Lewis. Mr. Lewis has called me on the telephone on at least two occasions. In fact, he called me twice today in regard to this situation. Various articles have appeared in the magazine *Finance*. Clippings have been sent to me, not by him, but by a friend of mine in St. Louis.

Mr. Lewis himself told me, without any solicitation on my part, that he intended to send a telegram to the Senator from Oregon. I suggested to Mr. Lewis that the telegram should be sent rush message, so that it might reach the Senator promptly. I believe I told Mr. Lewis that the matter was coming up on the floor of the Senate, and that I thought that if he intended to send a telegram it should be sent promptly. I do not know that I amplified my statement quite to that extent; but I wish the Senator to know that I knew that this telegram was coming, not because of any solicitation on my part, but because of the knowledge I had of it, and following my suggestion that he send it, since he told me that he was going to send it, as a rush message to the Senator.

Mr. MORSE. The telegram arrived about an hour ago, and I came over with the telegram because I thought at least the questions ought to be made a matter of record. This part of the telegram reads as follows:

Why, if there is no basis for the charges that Vardaman directed the falsification of the inventory statement, were third party affidavits made by De Coster and Reyburn burned up in the St. Louis law office? Vardaman testified, I am informed, that he was not present at the burning of the affidavits.

The next paragraph reads as follows:

We suggest that Sam Fordyce, senior member of law firm of Fordyce, White, Mayne, Williams, and Hartmann be subpoenaed. Our information is that he will testify that Vardaman was present at the time of the burning of the affidavits.

The Senator tells me that there is nothing in the record before the committee which supports the claim that Mr. Fordyce was in fact present.

Mr. DONNELL. The Senator is entirely correct.

Mr. MORSE. Mr. President, I read further from the telegram:

Why, when Vardaman has been connected with a business enterprise thrown into bankruptcy where the creditors received 30 cents on the dollar, should he be considered qualified to serve as a Governor of the Federal Reserve Board? The chief national bank

examiners, with few exceptions, will not approve as a principal officer of a new bank a banker who has been in a failed bank.

Mr. President, does the Senator from Missouri know anything about that practice on the part of the Federal bank examiners?

Mr. DONNELL. No; I do not.

Mr. MORSE. Is there any comment which the Senator would like to make?

Mr. DONNELL. I do not think the fact that Mr. Vardaman was connected with an institution which went into bankruptcy is at all conclusive as to his incompetency or competency. In fairness to him, I think it should be stated that the company was in dire financial straits from the time when he went into it. He himself also testified that he went there in the attempt to work it out of its difficulties and that he was somewhat of a trouble-shooter. That was his expression.

I think that the conditions which were found there after he had been with the company—the conditions which were found by Mr. Gentry—may properly be considered by the Senate in determining what, if any, business ability has been exhibited by Mr. Vardaman in the management of the company; but I do not concur in the view that the mere fact that he was connected with a company which went into bankruptcy should in itself disqualify the commodore.

Mr. MILLIKIN. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. MILLIKIN. I should like to observe that the testimony also shows that the creditors of the company were aware of the condition of the company from the beginning.

Mr. DONNELL. Mr. President, in that connection I may say that I do not know just what it is the Senator from Colorado refers to, except one minute which I read this afternoon. There may be other testimony; but I wish to emphasize a portion of the testimony which I am inclined to think the Senator from Colorado did not hear today, because I do not think he was in the Chamber at the moment when I read it. That was testimony showing that shortly or a few months after Mr. Vardaman went with the shoe company, he advocated the policy of not disclosing to anyone, even stockholders, the facts respecting profits, production, and so forth, unless with the consent of the treasurer of the company, and he was the treasurer of the company. I mention that as having some possible bearing on the question whether the creditors realized the conditions which prevailed.

Mr. McFARLAND. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. McFARLAND. I have been wondering whether we can agree as to a time to vote on the nomination tomorrow—for instance, at or before 3 o'clock.

Mr. DONNELL. No; I am not willing to make such an agreement.

Mr. RADCLIFFE. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. RADCLIFFE. When the Senator said a short time ago that it would take

him only half an hour or not more than an hour to conclude, I am sure he was appraising the situation and was mentally making some calculations. Even though we do not have a definite statement in regard to the future program, I think that in making our plans we can rest on the assurance—and that is the only reason why I make this statement—that the Senator from Missouri will not require more than an hour tomorrow.

Mr. DONNELL. That is my judgment, I may say, provided there are no interruptions. However, I feel that this matter is of such importance that I certainly should be willing to yield to any Senator who desires to ask questions.

Mr. RADCLIFFE. I wish to say to the Senator from Missouri that the only reason why I have discussed the point at all is that it really is necessary to make some sort of plans, if it is possible to do so. If we cannot do so, we shall be obliged to proceed as best we may.

Mr. DONNELL. I tell the Senator that I shall make every effort to conclude within an hour, if I am able to do so. I shall make every effort to do so.

Mr. McFARLAND. Mr. President, will the Senator from Missouri yield further?

Mr. DONNELL. I yield.

Mr. McFARLAND. I should like to give notice that I shall insist that the Senate remain in session tomorrow until consideration of the nomination is concluded. We have already consumed two entire days in consideration of the nomination. I am willing to have the session for today concluded at this time. But I think we should come to the Senate tomorrow prepared to remain in session until the pending matter is disposed of, if there is to be any prolonged discussion of it. There is important business pending before the Senate.

Mr. WHITE. Mr. President, will the Senator yield?

Mr. DONNELL. I yield.

Mr. WHITE. Of course, Mr. President, I am as anxious as is any other Senator to have the business before the Senate disposed of as rapidly as circumstances and good legislative practice will permit, but when a Senator has talked as long as the Senator from Missouri has, always in good faith and always addressing himself to the question before the Senate, I think we have asked of him all that we should ask, for he has already talked for 4 hours or more today. Under the circumstances, it seems to me that a consideration of proper procedure, with decent regard for the Senator from Missouri, suggests and recommends that we release him from the floor at this time, with the understanding that he will have the floor when the Senate reassembles tomorrow.

Mr. DONNELL. I thank the Senator.

Mr. WHITE. There is some business on the Executive Calendar which can be attended to.

Of course, the notice the Senator from Arizona has given relates to a matter which is in the control of the majority. It may be that it will be possible to conclude consideration of the pending matter long before midnight tomorrow. I certainly hope so.

Mr. DONNELL. Mr. President, I greatly appreciate the courtesy of the Senator.

Mr. WHITE. At any rate, Mr. President, that problem and situation will have to be determined in accordance with the circumstances which may exist tomorrow.

Mr. RADCLIFFE. Mr. President, will the Senator yield to me?

Mr. DONNELL. I yield.

Mr. RADCLIFFE. I was about to suggest that the Senate take a recess at this time, but it occurs to me that if the Senator from Oregon [Mr. MORSE] has almost completed the reading of the questions contained in the telegram he has received and if the reading of the remainder of them will take only a few minutes longer, possibly the Senator from Missouri will prefer that the reading of them be finished before a recess is taken.

Mr. DONNELL. I should prefer to have that done.

Mr. President, let me say, lest my previous statement did not reach the Senator from Maine, that I deeply appreciate and am very grateful to him and to all other Senators for the courtesy and kindness they have shown me.

Mr. MORSE. Mr. President, in line with the suggestion which has been made, I read another of the questions included in the telegram I have received:

Why was Vardaman's resignation as president of the Tower Grove Bank & Trust Co. forced? Why did not the subcommittee subpoena Miltenberger, Chairman Locatell, president of the Tower Grove, who stated that they had information which they were prepared to give as to Vardaman's record at the Tower Grove? In view of all this, I respectfully suggest that the hearing be reopened and that Fordyce, Connett, and Miltenberger be subpoenaed.

As to the first part of the question, does the record set forth any material bearing on the surrounding facts and circumstances as to why Mr. Vardaman resigned as president of the Tower Grove Bank & Trust Co.?

Mr. DONNELL. Mr. President, there is a statement from Mr. Vardaman. Would the Senator from Oregon like to have me outline it at this time?

Mr. MORSE. Suppose we leave the question in the RECORD tonight, and have the Senator from Missouri discuss it at the beginning of the session tomorrow.

Mr. DONNELL. I shall be glad to do so.

Mr. MORSE. Mr. President, will the Senator yield for a moment further?

Mr. DONNELL. I yield.

Mr. MORSE. Let me say that I share the view of the Senator from Arizona and I hope that at least the debate on the Vardaman charges can be closed tomorrow. However, I think it only fair to say that I shall move tomorrow that the matter of final consideration of the Vardaman nomination be postponed for at least 1 week, and I shall do so in the utmost good faith because of the position in which I find myself when called upon to cast a vote on the pending nomination. I assume that the position in which I find myself is the same as that in which a great many other Members of the Senate

find themselves, particularly those who have been absent throughout most of the debate, if they really wish to cast a vote in accordance with what they know to be the merits of this issue. It seems to me, as I intimated yesterday, that when such serious charges and challenges are made regarding a nomination to a position so high as the one to which Mr. Vardaman has been nominated, each Member of the Senate should be in a position to say with the utmost honesty that he knows that his vote is based upon an understanding of the merits of the record.

I merely submit, in view of the debate of the last 2 days, that if we proceed to vote on the nomination tomorrow, Senators who may be uninformed as to the record involved in this case, in the face of these serious charges, will simply be casting their votes on a matter as to the merits of which they really cannot speak.

I think we are dealing with a procedure of the Senate that is of the utmost importance if we are to instill in the minds of the American people the confidence which they should have in the deliberations of the Senate of the United States. I simply cannot believe that the American people would approve of having us sit here tomorrow and vote on the Vardaman nomination, with the tremendous record which has been challenged now for 2 days by the Senator from Missouri, without having an opportunity afforded those of us, at least, who take our votes on nominations so seriously that we think we owe it to the country to make a check upon the record, to have an adequate opportunity to make such a check.

I do not wish to be placed in such a position that I shall have to vote against the nomination because I have not had an opportunity to check for myself and to determine for myself whether the charges made by the Senator from Missouri are borne out by the record in this case. I do not see how I could cast an honest vote unless the Senate afforded an opportunity for such a check to be made. If we finish the debate on this question tomorrow there is no reason why final action cannot be postponed for a few days so as to allow Members of the Senate to examine into the record and ascertain whether they wish to be in position to back up their votes with a knowledge of the issues involved. No harm could result from such a postponement, while on the other hand a great deal of harm might result if a postponement were not granted. I expect to make a motion tonight that after the closing of the debate on the Vardaman nomination, the Senate postpone final action upon the matter for a minimum of 1 week.

Mr. McFARLAND. Mr. President, I cannot allow to go unchallenged the statement of the Senator from Oregon that serious charges have been made against Commodore Vardaman. If we accept the evidence which was adduced before the committee, we are bound to conclude that the charges are unfounded and are not serious. There is not one single bit of evidence which shows any wrongdoing on the part of Commodore Vardaman. Mere statements unsupported by evidence in regard to a man's

conduct should not be treated as charges against Commodore Vardaman. The evidence which was carefully weighed by the committee of which the Senator from Colorado was a member, did not show any wrongful act on the part of Commodore Vardaman. The Senator from Colorado [Mr. MILLIKIN] is an able lawyer. He is on the other side of the aisle and I am sure no one will question this fairness. His decision should be accepted as conclusive.

Mr. President, at the proper time I shall make a few remarks in regard to the qualifications of Commodore Vardaman.

With reference to the motion which the Senator from Oregon states he will make, I hope the Senate will not vote in favor of it.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. McFARLAND. I yield.

Mr. MORSE. I merely wish to say that the Senator from Arizona has expressed his views as a member of the committee. He has stated that the charges which have been made on the floor of the Senate in regard to Commodore Vardaman are not serious. I can well understand how the Senator from Arizona, who sat through the hearings held by the subcommittee, might take the position that in his opinion the charges are not serious. Of course, he will have to speak for himself, just as every other Member of the Senate must speak for himself. As one Member of the Senate who is not a member of the committee, and did not have an opportunity to attend the hearings of the subcommittee, but who has listened to the speech of the Senator from Missouri yesterday and again today, I wish to say that I believe some very serious charges have been made. I think the Senator from Missouri has made a prima facie case in regard to some of the charges which have been made, and before I vote on the nomination of Commodore Vardaman I wish to check the charges against the record. That is all I am asking for.

I think it is perfectly proper for the Senator from Arizona to take the position which he has taken, but what he has said is, in essence, that he thinks those of us who have not had an opportunity to check the record against the charges which have been made by the Senator from Missouri, and those Members who have not been present in the Chamber during the course of the debate, should be asked to walk into the Chamber tomorrow at the conclusion of the debate and vote for Mr. Vardaman, merely because the committee thinks that his nomination should be confirmed. I suggest that such practice has been indulged in by the Senate entirely too frequently. I think the time has come when individual Senators should start checking up some of the procedures of the Senate in order to make certain that we are not voting in favor of a certain nomination merely because so and so says that we should accept the report of the committee. We should vote only after satisfying ourselves as to the accuracy or lack of accuracy of the charges

which have been made by a colleague on the floor of the Senate. The right to do that is all that I am asking for, and I think it is the only procedure which should be countenanced in the Senate of the United States.

Mr. McFARLAND. Mr. President, I do not wish to engage in a debate with the Senator from Oregon. I merely wish to say that I am unwilling to agree that we do not properly conduct the procedure of the Senate.

Mr. WHITE. Mr. President, will the Senator yield?

Mr. McFARLAND. I yield.

Mr. WHITE. Before any other matter is taken up I inquire if the Senator from Missouri is now yielding with the understanding, so far as such an understanding can be had, that he will be recognized tomorrow, and will proceed at that time?

Mr. DONNELL. The Senator is correct.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2) to provide for Federal aid for the development, construction, improvement, and repair of public airports in the United States, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the President pro tempore:

S. 1657. An act to amend Public Law 779 of the Seventy-seventh Congress, entitled "An act to provide for furnishing transportation for certain Government and other personnel necessary for the effective prosecution of the war, and for other purposes," approved December 1, 1942, and for other purposes; and

S. 1739. An act to reimburse certain Navy personnel and former Navy personnel for personal property lost or damaged as the result of fires which occurred at various Navy shore activities.

EXECUTIVE MESSAGE REFERRED

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States submitting the nomination of Milton E. Ballangee for appointment as Director of Selective Service for the Territory of Hawaii, which was referred to the Committee on Military Affairs.

EXECUTIVE REPORTS OF A COMMITTEE

The following favorable reports of nominations were submitted:

By Mr. THOMAS of Utah, from the Committee on Military Affairs:

Raymond M. Lancaster for appointment as fiscal accountant, national headquarters, Selective Service System, under the provisions of section 10 (a) (3) of the Selective Training and Service Act of 1940, as amended;

Sundry officers for appointment, by transfer, in the Regular Army of the United States; and

Sundry officers for promotion in the Regular Army of the United States.

NAVY AND MARINE CORPS NOMINATIONS

Mr. McFARLAND. I ask unanimous consent that the nominations in the Navy and in the Marine Corps be confirmed en bloc, and that the President be notified.

The PRESIDENT pro tempore. Without objection, the nominations in the Navy and in the Marine Corps are confirmed en bloc; and, without objection, the President will be notified forthwith.

RECESS

Mr. McFARLAND. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 4 o'clock and 55 minutes p. m.) the Senate took a recess until tomorrow, Wednesday, April 3, 1946, at 12 o'clock meridian.

NOMINATION

Executive nomination received by the Senate April 2 (legislative day of March 5), 1946:

SELECTIVE SERVICE SYSTEM

Milton E. Ballangee for appointment as Director of Selective Service for the Territory of Hawaii under the provisions of section 10 (a) (3) of the Selective Training and Service Act of 1940, as amended.

Compensation for the position of Director of Selective Service for the Territory of Hawaii will be at the rate of \$6,650 per annum.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 2 (legislative day of March 5), 1946:

IN THE NAVY

APPOINTMENTS TO PERMANENT GRADE IN THE NAVY

William D. Leahy to have the permanent grade of Fleet Admiral of the United States Navy, to rank from December 15, 1944.

Ernest J. King to have the permanent grade of Fleet Admiral of the United States Navy, to rank from December 17, 1944.

Chester W. Nimitz to have the permanent grade of Fleet Admiral of the United States Navy, to rank from December 19, 1944.

William F. Halsey, Jr., to have the permanent grade of Fleet Admiral of the United States Navy, to rank from December 4, 1945.

IN THE MARINE CORPS

APPOINTMENT TO PERMANENT GRADE

Alexander A. Vandegrift, Commandant of the Marine Corps, to have the permanent grade of general in the Marine Corps from March 21, 1945.

APPOINTMENTS IN THE REGULAR MARINE CORPS

To be second lieutenants

Harold A. Elsele	Bonnie G. Jerry
Robert M. Patterson	Robert E. Bronson
Kenneth M. Ford	Richard S. Rash
Orvin H. Ramlo	Robert L. LaMar
Arthur F. O'Keefe	Carl W. Lindell
Griffith B. Doyle	Basil T. Idler
William D. Armstrong	Andrew L. McVickers
Frank Mick	Robert H. Peters
Henry A. McCartney	James E. Wilson, Jr.
Harold R. W. Walker	John J. Doherty
Richard B. Elliott	Paul M. Ruffner
Richard W. Johnson	Leonard A. Miller
Warren P. Nichols	Joseph E. Blattman
Paul A. Lemarie, Jr.	William W. Eldridge,
Marion C. Dalby	Jr.
John E. Cosgriff	Jack J. Howlett II
Wesley H. Rodenberger	John S. Bestwick
Walter W. Weber	Richard A. Ward